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ABSTRACT

The transcripts of a hearing held in September 1977 include statements of the deputy commissioner of education for student financial assistance, a representative of financial aid administrators, congressional representatives, and a federal official concerned with eligibility and agency evaluation. Prepared statements of these and other representatives, including a student group, are included. Some statistical data are presented. (MSE)

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HE009617

BASIC EDUCATIONAL OPPORTUNITY GRANTS PROGRAM
1978–79 Family Contributions Schedule

ED149702

HEARING

BEFORE THE

SUBCOMMITTEE ON POSTSECONDARY EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

FIRST SESSION

HEARING HELD IN WASHINGTON, D.C.
SEPTEMBER 12, 1977

Printed for the use of the Committee on Education and Labor
CARL D. PERKINS, *Chairman*

HE009617

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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BASIC EDUCATIONAL OPPORTUNITY GRANTS PROGRAM

1978–79 Family Contributions Schedule

MONDAY, SEPTEMBER 12, 1977

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON POSTSECONDARY EDUCATION,
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2 p.m. in room 2175, Rayburn House Office Building, Hon. William D. Ford (chairman of the subcommittee) presiding.

Members present: Representatives Ford, Biaggi, and Cornell.

Staff present: Thomas R. Jolly, counsel; Patricia R. Morse, clerk; Roberta E. Stanley, legislative assistant; Mary R. Paul, secretary; and Robert Andringa, minority staff director.

Mr. FORD. I would like to apologize for the fact that I was detained in Michigan this morning and could not be back here for the hearing, and I express my appreciation as chairman of the subcommittee for the consideration of the members of the subcommittee and for the witnesses who made changes in their schedules so we could reschedule the hearing for this time this afternoon.

The Subcommittee on Postsecondary Education is exercising its responsibilities to review the Office of Education's annual revision of the family contributions schedule which will be used to determine eligibility for basic educational opportunity grants for the 1978–79 academic year. The proposed schedule was published in the Federal Register on July 12, and unless either House of the Congress disapproves it by October 1, it will become effective.

The schedule establishes a formula which measures the ability of a student and his or her family to contribute to the student's education and thereby determines the amount of the Federal grant for which he or she is eligible.

[The material referred to follows:]

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federal register

TUESDAY, JULY 12, 1977

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

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NATIONAL DIRECT STUDENT LOAN PROGRAM; COLLEGE WORK-STUDY PROGRAM; SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM; AND BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Definition of Independent Student

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Parts 144, 175, 176, and 190]

NATIONAL DIRECT STUDENT LOAN PROGRAM, COLLEGE WORK-STUDY PROGRAM, SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM, AND BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Definition of Independent Student

AGENCY: Office of Education, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commissioner of Education, with the approval of the Secretary of Health, Education and Welfare, proposes to issue the following amendments to the regulations defining the independent student under the Basic Educational Opportunity Grant Program, the Supplemental Educational Opportunity Grant Program, the College Work-Study Program, and the National Direct Student Loan Program. The proposed regulation sets forth a revised definition of independent student in order to improve equity in the classification of students as dependent or independent for purposes of participation in the Federal student financial aid programs.

DATES: Comments must be received on or before August 26, 1977. Hearings will be held on August 8, 1977 in Washington, D.C. commencing at 10 a.m.

ADDRESSES: The hearing will be held at Regional Office Building No. 3 Auditorium, 7th and D Streets SW., Washington, D.C. 20202. Written comments should be sent to Mr. Peter K. C. Voight, Director Division of Basic and State Student Grants, ROB-3, Room 4717, 400 Maryland Avenue SW., Washington, D.C. 20202. Comments will be available for public inspection at the above office between 8:30 and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Ernst Becker, (202) 245-1744.

SUPPLEMENTARY INFORMATION: These regulations are expected to be in effect during the 1978-79 academic year. (20 U.S.C. 1070a, 1070b-1070b-3, 1087aa-ff, 42 U.S.C. 2751-2756).

Those amendments are being submitted for public comment, since the definition of the independent student under the Basic Educational Opportunity Grant Program is embodied in the regulations covering the basis for determining the expected family contribution for dependent and independent students. These amendments will soon be submitted for review by both Houses of Congress as required by statute. The regulations to which these amendments are proposed were previously published on June 11, 1976 (41 FR 23704) for the Basic Educational Opportunity Grant Program, November 24, 1976 (41 FR 51685) for the National Direct Loan and the Supplemental Educational Opportunity Grant Program, and September 1, 1976 (41 FR 36884) for the College Work-Study Program.

EXPLANATION OF NEED FOR REGULATIONS

The basic premise for all need-based financial aid programs is that the primary responsibility for financing a student's education rests with the student and his family. The Federal aid is intended to meet those educational costs which remain after the student's resources and an expected contribution from his or her parents have been taken into account. At the same time, there is a category of students who are financially independent of their parents and, as such, cannot expect their parents to bear the cost of their education. The problem of defining an independent student in a manner which will be acceptable and which can be easily administered is an extremely complex issue. Historically, it has been a highly controversial subject in the administration of financial aid.

There is general consensus among financial administrators that any definition of an independent student should meet certain basic requirements:

(a) It should maintain the concept that the primary responsibility for meeting the cost of postsecondary education rests with the student and his family.

(b) It should be based on objective and verifiable criteria, and require the least possible amount of personal information from the student and his family.

(c) It should prevent inequities in the classification of applicants to the fullest possible extent.

(d) It should be readily understood by students and their parents.

During recent years, the definition which is most widely used in awarding Federal, State and institutional aid defines a student as independent of the student:

1. Has not and will not be claimed as an exemption for Federal Income Tax purposes by any person except his or her spouse for the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested; or

2. Has not and will not receive financial assistance of more than $600 from his or her parent(s) in the calendar year in which aid is received and the calendar year prior to the academic year for which aid is requested; or

3. Has not or will not live for more than two consecutive weeks in the home of a parent during the calendar year in which aid is received and the calendar year prior to the academic year for which aid is requested.

However, program experience has demonstrated numerous inequities and problems with the present definition. Specifically, there has been increasing concern that the present definition does not support the concept of the parents' responsibility for the post-secondary education of their children. The intent of the present definition may be readily circumvented by those parents who choose not to claim a student as a tax exemption during the base year in order to qualify the student as an "independent" applicant. In addition, the present formula has also been criticized as being arbitrary and unfair to some students. Furthermore, it is difficult to verify the accuracy of most of the information provided in the application form under the present definition.

In view of the serious implications for the future impact on need-based programs, and in particular the Basic Grant Program, it is essential that serious consideration be given to changing the present definition of the independent student. This issue is further underscored by the fact that between 30 and 40 percent of all eligible applicants under the Basic Grant Program are expected to file as independent students during the current and subsequent academic years, and similar trends are evident for the campus-based programs. At the same time, it should be noted that the primary concerns regarding the definition of independent student revolve around questions of improved equity, rather than developing a definition with the purpose of reducing the proportionate share of applicants filing as independent students.

For these reasons, a number of amendments to the current definition are proposed. Specifically, these amendments to the Basic Grant and campus-based student aid programs provide for an extension of the residence limitation from two weeks to six weeks. The six-week period is proposed as a reasonable period of time in which a student can be expected to visit his or her parents without classifying the student as dependent, as frequently would be the case under the present two-week rule. On the other hand, residence with parents which extends for more than six weeks would be considered as an indication of parental support to the student.

In addition, the Federal tax exemption criteria has been extended to apply for two calendar years prior to the academic year for which aid is requested, rather than the one calendar year required under current regulations. This provision is proposed to strengthen the concept of parental responsibility to provide support for the postsecondary education of their children and to reduce the possibility of deliberate evasion of the intended purpose of the definition.

Under the proposed revision of the definition, the criteria concerning the amount of actual financial assistance received from the parents by the student has remained unchanged.

However, it should be further noted that the criteria concerning the residence limitation and parental financial assistance will continue to apply for the base year and the subsequent calendar years under the proposed definition, whereas the tax exemption criteria has been extended to include the year prior to the base year. Consideration has been given to the extension of all of the criteria to cover the year prior to the base year

as well as the base year and year of application. It was determined, however, that the extension to the year prior to the base year of the residence limitation and the parental contribution criteria would have created serious inequities for many applicants and, therefore, would not improve the effectiveness of the definition of independent student. However, because it is generally agreed that the tax exemption criteria is a strong and definitive indicator of financial dependence, the expansion of this criteria is considered to be fair and equitable. For this reason, it was determined that the tax exemption criteria would be extended an additional year in the proposed revision of the definition of independent student.

Under the National Direct Student Loan Program, all veterans will continue to be treated as independent students regardless of their financial relationship to their parents. This special criterion for veterans in determining eligibility for a National Direct Student Loan was enacted in the Education Amendments of 1972, and appears in § 144.2(dd) of the NDSL Interim Regulations published in the FEDERAL REGISTER on November 24, 1976.

It should further be noted that an accurate determination as to whether a student is actually independent of parental financial support essentially requires a detailed review of the financial relationships between the student and his parents. Such an approach could be considered an unnecessary intrusion into the personal and private family relationships by public agencies which would be regarded as unacceptable by many applicants. At the same time, any definition of the independent student which is based on more objective criteria invariably raises questions of equity and fairness regardless of the definition of dependence-independence that may be developed. This issue is of some concern with respect to the Basic Grant Program which is a formula-based program designed to treat all applicants in a standard and consistent manner with a minimum of discretionary intervention.

However, accommodation of potential inequities under the Basic Grant Program is possible by applying discretionary judgments under the campus-based programs for those students for whom parental resources were included in the determination of Basic Grant eligibility but who in the judgment of the financial aid officer cannot be expected to receive financial support from their parents. In these situations, the expected parental contribution may be waived at the discretion of the financial aid officer in determining eligibility for aid under the campus-based programs. Regulatory authority permitting such discretionary judgments on the part of the financial aid officer is already contained in the regulations governing the campus-based programs. Accommodation of potential inequities through the exercise of professional judgment by the financial aid officer serves to maintain the legislative intent of the individual programs.

SUMMARY OF COMMENTS RECEIVED

The Commissioner published in the FEDERAL REGISTER, Vol. 41, No. 230, Monday, November 29, 1976, a Notice of Intent to Issue Regulations implementing the provisions of the Education Amendments of 1976 (41 FR 52410). On page 52413, comments were invited concerning the revision of the independent student definition and the possible criteria for determining student dependency. Five public conferences were held at various locations between December 13-17, 1976, at which the Office of Education received comments on this and other issues presented on the Notice. In addition, forty-three written comments were also received through December 30, 1976, concerning the independent student definition.

The possible factors to consider in defining a financially independent student were presented as follows:

1. *Tax Exemption.* Should being claimed as a tax exemption for Federal income tax purposes be used as an indication of dependency?

2. *Marital Status or Dependents.* Should consideration be given to those students who are married or have dependents for whom they provide at least one-half support?

3. *Age.* Should age be a factor in determining dependency, and, if so, what age limit should be established?

4. *Residence.* Is residence at a parent's home an indication of dependency? If so, what limit on the length of residence should be established?

5. *Employment.* When determining a student's independent status, should prior employment history or other visible means of support be required?

6. *Actual Financial Contributions by Parents.* What amount of financial support should disqualify a student from being considered independent?

The following is a summary of the comments received pertaining to these proposed criteria.

The comments received were almost unanimous in their opinion that being claimed as an exemption for Federal Income Tax purposes by someone other than a spouse is an indication of dependency. This criterion is generally agreed to be an objective and readily verifiable determinant of financial dependence. It is also considered to be the strongest indication of a student's financial dependence upon his or her parents. For these reasons, the Federal tax exemption criterion has been retained in the present definition, but has been extended to apply for two calendar years prior to the academic year for which aid is requested, rather than the one calendar year as presently required. This extension is intended to strengthen the tax exemption criterion in order to improve the effectiveness of the definition.

Comments were divided on whether the applicant's marital status or having dependents of his own should be considered in determining dependency. Several commenters felt that the presence of either of these conditions constitutes independence and should be considered in the determination of dependency status. However, many of the comments stated that marriage or having dependents does not necessarily indicate an applicant's independence from parental support. As a number of commenters noted, the fact that a student has recently married and left his or her parent's household should not entitle the student to special consideration as an independent student for purposes of receiving Federal financial aid. The married student or the student with dependents should be required to fulfill the same criteria as all other applicants in determining the financial relationship with his or her parents. Some students may be receiving parental support regardless of their marital status or whether they may have dependents of their own. Therefore, marital status or having dependents cannot be considered a reliable measure of financial independence. For this reason, the regulations were not amended to include the two factors as criteria in determining independent student status.

The majority of commenters felt that age should not be a factor in determining dependency. The age of the applicant does not necessarily preclude dependence or independence from parental support. In addition, several responses questioned the possible legal issues concerning the discriminatory effects of the condition. Establishment of an objective and equitable age level that would be consistent in treatment for the majority of students would be difficult, if not impossible. For these reasons, the definition was not amended to include age as a factor in determining dependence.

Responses were generally mixed concerning whether residency at the home of the parents is an indicator of dependency. Several of the commenters expressed the opinion that living at home does not always mean that a student is financially dependent upon his parents, especially in cases where the student pays room and board to his parents. In contrast, many commenters supported the inclusion of this factor on the basis that extended residence at the home of the parent did, in fact, constitute dependency. In the past, it has been program experience that students who live at home, even if they pay for room and board, are generally subsidized to a significant degree by their parents. Lack of monetary contribution by the parents does not necessarily mean that there is no support. Therefore, it was felt that some limitation on the period of residence with the parents should be retained in the definition. However, many of the commenters in favor of this criterion felt that the present requirement that applicants residing with their parents for two consecutive weeks or more should be considered dependent is too restrictive and that a longer period of residency would be necessary to indicate financial dependence. Therefore, the present definition has been amended to expand the limitation on the period of residency from two weeks to six weeks.

The majority of commenters indicated that an applicant's prior employment

history or verifiable documentation of other means of support should be required for students who wish to be considered independent. However, the regulation was not changed to include this provision. Specifically, in order to make a determination of a student's ability to support himself, the present application form would need to be considerably expanded in order to collect information on all resources available to the student. This would include information on taxable income such as income from employment as well as non-taxable income such as unemployment benefits, welfare benefits, Social Security and Veterans benefits, student financial aid awards, loans, gifts, support in kind, etc. Collection of such data for purposes of establishing the dependency status of an applicant would be cumbersome both from the standpoint of the applicant who must provide this information and for administrative considerations. Further, given the formula nature of the Basic Grant Program, a minimum living allowance standard would need to be established on the basis of which a student would be determined to be self-supporting. Since such a standard could not accommodate unique circumstances of individual applicants, certain inequities in the treatment of applicants would not be alleviated by this approach. In addition, a primary objective of the independent student definition is to determine whether there exists a parental responsibility to provide for the postsecondary education of a child. Evidence of self-support and the degree of that self-support does not necessarily preclude the financial responsibility of the parents.

Finally, most comments agreed that the actual financial contribution by parents should be included as a factor in determining dependency. Although there were a variety of suggested levels of parental support which should be used to determine dependency, most commenters indicated that the current $600 level of actual parental contribution was an objective and equitable amount. Therefore, the definition was not changed with respect to actual contribution by parents.

Note.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance No. 13.418 Supplemental Educational Opportunity Grant Program; No. 13.462 Higher Education Work-Study (College Work-study Program); No. 13.471 (National Direct Student Loan Program; No. 13.539 Basic Educational Opportunity Grant Program.)

Dated: May 4, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: June 30, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

1. Part 144 of Title 45 of the Code of Federal Regulations is amended to read as follows:

PART 144—NATIONAL DIRECT STUDENT LOAN PROGRAM

Section 144.2(dd) is amended to read as follows:

§ 144.2 Definitions.

(dd) "Self-supporting or Independent Student" means a student who is either (1) a veteran as defined in § 144.2(hh) or (2) a student who:

(i) Has not and will not be claimed as an exemption for Federal income tax purposes by any other person except his or her spouse for any calendar year(s) in which aid is received or either or both of the two calendar years prior to the academic year for which aid is requested; and

(ii) Has not lived or will not live for more than six weeks in the home of a parent during any calendar year(s) in which aid is received or the the calendar year prior to the academic year for which aid is requested.

For purposes of this paragraph, a student will not be considered to have been claimed as an exemption by a parent, or to have lived with a parent if that parent has died prior to the student's submission of an application for a loan, and if no person, other than the student's spouse, provides or will provide more than one-half of the student's support for the first calendar year in which assistance is requested.

* * * * *

2. Part 175 of Title 45 of the Code of Federal Regulations is amended to read as follows:

PART 175—COLLEGE WORK STUDY PROGRAM

Section 175.2(w) is amended to read as follows:

§ 175.2 Definitions.

* * * * *

(w) "Self-supporting or Independent Student" means a student who:

(1) Has not and will not be claimed as an exemption for Federal income tax purposes by any other person except his or her spouse for any calendar year(s) in which aid is received or either or both of the two calendar years prior to the academic year for which aid is requested;

(2) Has not received and will not receive financial assistance of more than $600 from his or her parent(s) in any calendar year(s) in which aid is received or the calendar year prior to the academic year for which aid is requested; and

(3) Has not lived or will not live for more than six weeks in the home of a parent during any calendar year(s) in which aid is received or the calendar year prior to the academic year for which aid is requested.

For purposes of this paragraph, a student will not be considered to have been claimed as an exemption by a parent, or to have received $600 from a parent, or to have lived with a parent if that parent has died prior to the student's submission of an application for employment under the College Work-Study Program, and if no person, other than the student's spouse, provides or will provide more than one-half of the student's support for the first calendar year in which assistance is requested.

* * * * *

3. Part 176 of Title 45 of the Code of Federal Regulations is amended to read as follows:

PART 176—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Section 176.2(s) is amended to read as follows:

§ 176.2 Definitions.

* * * * *

(s) "Self-Supporting or Independent Student" means a student who:

(1) Has not and will not be claimed as an exemption for Federal income tax purposes by any other person except his or her spouse for any calendar year(s) in which aid is received or either or both of the two calendar years prior to the academic year for which aid is requested;

(2) Has not received and will not receive financial assistance of more than $600 from his or her parent(s) in any calendar year(s) in which aid is received or the calendar year prior to the academic year for which aid is requested; and

(3) Has not lived or will not live for more than six weeks in the home of a parent during any calendar year(s) in which aid is received or the calendar year prior to the academic year for which aid is requested.

For purposes of this paragraph, a student will not be considered to have been claimed as an exemption by a parent, or to have received $600 from a parent, or to have lived with a parent if that parent has died prior to the student's submission of an application for a grant, and if no person, other than the student's spouse, provides or will provide more than one-half of the student support for the first calendar year in which assistance is requested.

* * * * *

4. Part 190 of Title 45 of the Code of Federal Regulations is amended to read as follows:

PART 190—BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

(a) In § 190.32, subparagraph (n)(2) is amended to read as follows:

§ 190.32 Special definitions.

* * * * *

(m) (1) * * *

(2) Notwithstanding the provisions of paragraph (l)(1) of this section, the student's mother or father will be considered the student's parent (i) If, for the calendar year(s) for which aid is received or either or both of the two calendar years prior to the school year for which aid is requested, either claimed or will claim the student as an exemption for Federal income tax purposes, or (ii) if either contributed or will contribute more than $600 to the student in any calendar year(s) for which aid is received or the calendar year prior to the school year for which aid is requested, or (iii) if the student has lived or will live for more than six weeks in their home during any calendar year(s) for which aid is received or the calendar year prior to the school year for which aid is requested.

* * * * *

(b) In § 190.42, paragraph (a) is amended to read as follows:

§ 190.42 Special definitions.

* * * * *

(a) (1) A student qualifies as an independent student if the student:

(i) Has not and will not be claimed as an exemption for Federal income tax purposes by any other person except his or her spouse for any calendar year(s) in which aid is received or either or both of the two calendar years prior to the academic year for which aid is requested, and

(ii) Has not received and will not receive financial assistance of more than $600 from his or her parent(s) in any calendar year(s) in which aid is received or the calendar year prior to the academic year for which aid is requested, and

(iii) Has not lived or will not live for more than six weeks in the home of a parent during any calendar year(s) in which aid is received or the calendar year prior to the academic year for which aid is requested.

(2) Notwithstanding subparagraph (1) of this paragraph, a student will not be considered to have been claimed as an exemption, by a parent, or to have received $600 from a parent, or to have lived with a parent if that parent has died prior to the student's submission of an application for a grant, and if no person, other than the student's spouse, provides or will provide more than one-half of the student's support for the first calendar year for which assistance is requested.

(3) Notwithstanding subparagraph (1) of this paragraph, a student qualifies as an independent student if, (i) the student's parent is not his mother or father but is the person, other than the student's spouse, who provided more than one-half of his support in the base year (190.32(m)), and (ii) that parent does not or will not provide one-half support during the first calendar year for which aid is requested.

* * * * *

[FR Doc 77-19585 Filed 7-11-77 8:45 am]

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federal register

TUESDAY, JULY 12, 1977
PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Family Contribution Schedules

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 190]

BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Family Contribution Schedules

AGENCY: Office of Education, HEW

ACTION: Notice of proposed rulemaking.

SUMMARY: The Family Contribution Schedules are the formulas used in determining student eligibility on the basis of financial need for the Basic Educational Opportunity Grant Program. The regulation governing the program requires that these schedules be submitted annually for public comment and for review by both Houses of Congress. The amendments to the Family Contribution Schedules, including in this notice of proposed rulemaking are intended to address concerns which have been identified regarding various aspects of the formulas.

DATES: Comments must be received on or before August 31, 1977.

ADDRESSES: Comments should be addressed to: Mr. Peter K. U. Voigt, Director, Division of Basic and State Student Grants, U.S. Office of Education, Room 4717, ROB-3, 7th & D Streets, S.W., Washington, D.C. 20202. Comments received will be available for inspection at the above address between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Mr. Errol Becker, 202-245-1744.

SUPPLEMENTARY INFORMATION: The family size offsets included in the Family Contribution Schedules are intended to provide for basic family subsistence expenses which must be met before any contribution toward a student's educational costs can be expected. In order to establish a standard for determining the amount of these subsistence expenses, the Basic Grant Program adopted, during its initial year of operations, the "Weighted Average Thresholds at Low Income Level" published by the Bureau of the Census. These expenses are based on the food costs of families of given sizes, and make certain assumptions about additional expenses of shelter and other family needs. These base line data have been updated annually to accommodate the increases in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor.

In determining the expected family contribution for the Basic Grant Program, applicants report actual financial data for a base year which is the calendar year prior to the academic year for which the grant is requested. This data included in the 1978-79 application will reflect actual financial circumstances in calendar year 1977. To derive the family size offsets for the 1977 base year, those used for 1976 will be adjusted to correspond to the actual increase in the Consumer Price Index published by the Bureau of Labor Statistics at the end of the year. Since this notice of proposed rulemaking is published well before the conclusion of the year, the amounts in the 1978-79 Family Contribution Schedule are estimated by increasing those used for 1977-78 by six percent. When the final regulation is published, these estimated amounts will be replaced by family size offsets based on the actual Consumer Price Index statistics for 1977 as published by the Department of Labor.

A number of additional changes have been proposed for the 1978-79 Family Contribution Schedules with the intention of improving the equity of the program. They are listed here in the order in which they appear in the regulation.

1. The Office of Education is participating in the continuing efforts of the Committee on Forms Development, established by the National Task Force on Student Aid Problems, to develop common data elements for the Basic Grant application and the applications of the major need analysis services and various State scholarship programs. To further this goal, the Commissioner is proposing to revise the criteria for determining which parent's annual adjusted family income shall be considered in computing Basic Grant eligibility for a student whose parents are divorced or separated. The current Basic Grant regulation requires income information from the parent who most recently provided the greater portion of the student's support. The proposed revision, which would provide consistency with the procedures of the major need analysis services, would require income information from the parent who has custody of the student or, in cases in which the term "custody" is no longer applicable, the parent with whom the student resided for the greater portion of the twelve-month period preceding the date of the application. If the applicant resided with another parent during that period, the income of the parent who is providing the greater portion of the applicant's support shall be considered.

Additionally, efforts are being made to the Basic Grant Program and the major need analysis services to establish a consistent method for treating the income and assets of a step parent. Under current Basic Grant procedures, the step parent's financial information is reported only when the applicant has resided with the step parent and parent during the base year or the calendar year following the base year. However, no specific length of residency is stated. Under the proposed revision, the text would be made more specific by requiring that financial information from the step parent if the applicant lived in the step parent's home for more than six weeks during the base year or the calendar year following the base year. Additionally the revision would also require that the step parent's financial information be included if he or she had contributed more than $600 per year to the applicant's support during the base year or the calendar year following the base year.

2. The Supplemental Form is intended to allow an applicant to use estimated income data in filing a Basic Grant application when a major change has taken place in the financial strength of the family. The conditions under which the form may be filed has been limited to only those cases which are most likely to result in drastic changes in family income. One of these conditions is the loss of employment by a parent of a dependent student or by an independent student or spouse. Program experience has indicated that the expiration of unemployment benefits has for many applicants constituted a change in financial circumstances equally as serious as the previous loss of employment. To permit this loss to be reflected in Basic Grant eligibility computations, the Commissioner is proposing to amend the regulations to include the loss of unemployment benefits as a permissible condition for filing a Supplemental Form.

3. In completing a Basic Grant application, the applicant or the applicant's parents must provide a listing of asset amounts, including cash on hand, savings accounts, checking accounts, and trusts, and the current market value of securities, real estate, home and other property. Corrections in reported asset amounts are permitted only if an arithmetical error has occurred or if the information submitted was inaccurate for the date on which the application was submitted. With several million applications being processed annually it would not be possible to permit corrections to be made after an application has been submitted to reflect later fluctuations in the family's net position.

If a student's family should suffer a loss of assets because of a natural disaster after the Basic Grant application was been submitted, the financial aid officer at the student's institution may take this loss into account in determining eligibility for aid under the three campus-based programs: National Direct Student Loans, College Work-Study and Supplemental Educational Opportunity Grants. If that loss of assets has been of such magnitude that the family can no longer be expected to contribute the amount which had originally been expected, the financial aid officer has the discretion under the regulations governing each of the three campus-based programs to reduce the expected family contribution to a level which reflects the family's current financial circumstances and to increase the awards from the three campus-based programs accordingly.

Generally, this flexibility provided to the financial aid officer in awarding aid from the campus-based programs should be sufficient to compensate for a family's loss of assets resulting from a natural disaster. However, if the disaster is of such magnitude that the President declares the area in which it occurs to be

a national disaster area, the institution's funds for the campus-based programs may be taxed to such an extent that the additional student need could not be met. To remedy this problem, the Commissioner is proposing to amend the regulations to provide that a revision is previously reported asset amounts may be submitted if the applicant or the applicant's family has suffered a loss of or damage to assets resulting from a natural disaster in an area which has been declared a national disaster area by the President of the United States.

NOTE: The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Number 13.539, Basic Educational Opportunity Grant Program)

Dated: June 22, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: June 30, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Part 190 of Chapter I of Title 45 of the Code of Federal Regulations would be amended as follows:

PART 190—BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

1. In § 190.32a, paragraphs (c), (e) and (f) would be amended to read as follows:

§ 190.32a Annual adjusted family income.

* * * * *

(c) For a student whose parents are divorced or separated, only the income as described in paragraph (a) of this section of the parent who has custody of the applicant shall be considered in determining the annual adjusted family income. If custody was not awarded, if neither parent now has custody, or if the parents have equal custody, only the income of the parent with whom the applicant resided for the greater portion of the twelve-month period preceding the date of the application shall be considered. If the applicant did not reside with either parent during the twelve-month period preceding the date of application, the income of the parent who is providing the greater portion of the student's support shall be considered.

* * * * *

(e) If a parent whose income is taken into account under paragraph (c) of this section has remarried, the income of that parent's spouse shall also be considered in determining the annual adjusted family income of the student if the student:

(1) Has received or will receive financial assistance of more than $600 per year from that parent's spouse in the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested, or

(2) Has lived or will live for more than 6 weeks in the home of that parent's spouse during the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested.

(f) If a parent whose income is taken into account under paragraph (a) of this section was a widow or widower and that parent has remarried, the income of that parent's spouse shall also be considered in determining the annual adjusted family income of the student if the student:

(1) Has received or will receive financial assistance of more than $600 per year from that parent's spouse in the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested, or

(2) Has lived or will live for more than 6 weeks in the home of that parent's spouse during the calendar year in which aid is received and the calendar year prior to the academic year for which aid is requested.

2. In § 190.33, subparagraph (c)(1) would be amended to read as follows:

§ 190.33 The expected family contribution for dependent students from effective income.

* * * * *

(c) * * *

(1) Family size offset. A family size offset is the amount specified in the following table. Family members include the student, the student's parents and the student's parent's dependents. If the parents are divorced or separated, family members include the student and any parent whose income is taken into account for the purpose of computing the annual adjusted family income and that parent's dependents. If the parents are divorced and the parent whose income is taken into account for the purpose of computing the annual adjusted family income has remarried, or if the parent was a widow or widower who has remarried, family members shall also include any dependents of that spouse if the new spouse's income is taken into account in determining the annual adjusted family income.

Family size offsets

Family members	Amount
2	$4,100
3	4,900
4	6,250
5	7,350
6	8,350
7	9,300
8	10,200
9	11,200
10	12,150
11	13,050
12	14,000

* * * * *

3. In § 190.39, subparagraph (a)(5) and paragraph (c) are added to read as follows:

§ 190.39 Extraordinary circumstances affecting the expected family contribution determination for dependent students.

(a) * * *

(5) A parent whose income was included in the calculation of expected family contribution as determined in § 190.33 has experienced a loss of unemployment benefits in the base year or the tax year subsequent to the base year.

* * * * *

(c) An applicant may submit a revised application to reflect changes in asset amounts reported on the previously submitted application if the applicant or the applicant's family has suffered a loss of or damage to assets resulting from a natural disaster in an area which has been declared a national disaster area by the President of the United States.

* * * * *

4. In § 190.43, subparagraph (c)(1) is amended to read as follows:

§ 190.43 The expected family contribution for independent students from annual adjusted family income.

* * * * *

(c) * * *

(1) Family size offset. A family size offset is the amount specified in the following table. Family members include the student and his dependents. If the student is divorced or separated, family size shall include any person whose income is taken into account for the purpose of computing the annual adjusted family income and his or her dependents.

Family size offsets

Family members	Amount
2	$4,100
3	4,900
4	6,250
5	7,350
6	8,350
7	9,300
8	10,200
9	11,200
10	12,150
11	13,050
12	14,000

An offset of $1,100 shall be made for the single independent student.

* * * * *

5. In § 190.48, subparagraph (a)(6) and paragraph (c) would be added to read as follows:

§ 190.48 Extraordinary circumstances affecting the expected family contribution determination for independent students.

(a) * * *

* * * * *

(6) An applicant or spouse whose income was included in the calculation of the expected family contribution as determined in § 190.43 has experienced a loss of unemployment benefits in the base year or the tax year subsequent to the base year.

(c) An applicant may submit a revised application to reflect changes in asset amounts reported on the previously submitted application if the applicant or the applicant's spouse has suffered a loss of or damage to assets resulting from a natural disaster in an area which has been declared a national disaster area by the President of the United States.

[FR Doc 77-19362 Filed 7-11-77;8:45 am]

Mr. FORD. The Office of Education at the same time published a proposed revision of the definition of an independent student for the purposes of determining eligibility for basic grants, work/study programs and direct student loans. We will also be hearing testimony on this issue—from the Office of Education and other interested parties.

I am pleased that we have appearing as our first witness this afternoon Congressman David Obey who is recognized as a great friend of education. He has expressed a particular interest in expanding the access of basic grants to a broader based constituency, and thanks to his efforts on the Appropriations Committee, it appears that we will have an additional $90 million in fiscal year 1978 to be used for this purpose.

Congressman Richardson Preyer, who has contacted the subcommittee on several occasions regarding constituents of his who have been denied the necessary basic grant funds to attend school, will follow.

Representing the Office of Education and explaining the rationale for the proposed changes in the family contribution schedule and the independent student definition will be Mr. Leo Kornfeld, Deputy Commissioner for Education for Student Financial Assistance. It is our understanding that Mr. Kornfeld will be announcing some further modifications—both in the family contributions schedule and in the definition of an independent student today.

On behalf of the education community, Dallas Martin, executive secretary of the National Association of Student Financial Aid Administrators, will respond to these proposals.

Again, I am extremely grateful to all of the witnesses who, despit demanding schedules, were able to accommodate the unavoidable delay in commencing this hearing.

Congressman Obey, you may proceed. Your statement will be printed in full in the record.

[Statement by Congressman Obey follows:]

Statement By
CONGRESSMAN DAVID R. OBEY
Before
THE POST SECONDARY EDUCATION SUBCOMMITTEE
of the
The House Committee on Education and Labor
September, 1977

I appreciate the opportunity of testifying before your Subcommittee on the question of the family contribution schedule for the Basic Education Opportunity Grant program. You have a very big and complex job before you. In my opinion, there are few programs in the federal government more likely to induce widespread acrimony throughout the country than will BEOGs if over the course of the next several years we do not affect significant changes in eligibility requirements.

The Department of Labor has developed figures for this past year showing that a family of four with younger children requires an income of $10,000 to meet minimal standards of nutrition, housing and other necessities. For what the Labor Department describes as a modest but adequate standard of living, $18,000 is required. If you were to consider older children, the cost would go up and there is nothing in these figures to allow for the cost of attending school.

In many cases, the family living at or even below what the Labor Department lists as minimal standards would receive considerably less than the maximum grant under this program due to the family contribution schedule, and a great many families living on less than what the Labor Department describes as a modest but adequate income even before they start paying the cost of a college education receive nothing from the program at all to offset college expenses that range well over $3,000 a year.

There are three basic inequities in the family contribution schedule which are responsible:

First, income. Currently, HEW regulations assume that a family of four living on more than $5,900 should contribute 20% of any income they have over $5,900 to the cost of their child's education. The basic grant the child will receive is reduced by that amount.

Second, personal assets. Ownership of a small home will, in many cases, preclude families from receiving any assistance at all under the program. The program reduces the grant of any child whose family has personal assets of more than $12,500, including equity in a home, by 5% of every dollar over $12,500. In one instance in my district, a deputy sheriff earning only $16,000 who has six children, learned that his eldest daughter who was to start to college this fall did not qualify for any funds under BEOG because the family had $30,000 equity in a home. I guess the rationale was that he should sell the house and move his wife and six children into an apartment so he could send his children to college.

Third, small business and farm assets. Secretary Califano told the Appropriations Subcommittee on Labor-HEW that he felt the greatest inequity in the BEOG program was the manner in which it treated small business and farm assets. I agree. Under the current structure of the family contribution

schedule, it is an unusual circumstance when the children of a farmer or a small businessman can qualify for any help under the basic opportunity grant program, regardless of whether or not the family had any income at all. BEOGs are reduced by $50 for every thousand dollars in farm or business assets an individual has in excess of $25,000. That means there is no way a farmer with much more than 40 acres and a mule can get help even if his cash income is consistently below the poverty level.

I believe that we should attack all of these problems and asked the Appropriations Committee for sufficient funds to do so. While the House included most of the funds that would have been needed, the Senate eliminated these funds in favor of increased spending in the field of health. In conference, we agreed on $2.160 billion for basic opportunity grants, or $90 million above the amount required for funding a $1,600 grant, according to Administration estimates.

It was the position of the Appropriation conferees that this money would at a minimum permit a doubling of the $25,000 offset for farms and small businesses, the cost of which OE has estimated at $24 million, and using the remainder to increase the $12,500 offset for personal assets. OE estimates that the $66 million remaining could increase that offset to $17,000.

I hope that this Subcommittee will push for those changes at a minimum and perhaps persuade the Administration to accept some additional relaxation in the family contribution schedule which, as you know, they have been willing to do in past years, even when no specific sums were appropriated for that purpose. It should be remembered that the Congressional Budget Office estimates indicate that the $2.160 billion provided by the Appropriations Committee for BEOGs will fully fund the $1,600 grant and leave considerably more than $90 million for relaxation of the family contribution schedule. Good luck.

STATEMENT OF HON. DAVID R. OBEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. OBEY. Mr. Chairman, I appreciate your letting me get in quickly before I have to go to the HEW conference to deal with a subject we have dealt with for some time, namely abortion.

In my opinion there are few programs in the Federal Government more likely to induce widespread acrimony throughout the country than will BEOG's if over the course of the next several years we do not effect significant changes in eligibility requirements.

The Department of Labor has developed figures for this past year showing that a family of four with younger children requires an income of $10,000 to meet minimal standards of nutrition, housing, and other necessities. For what the Labor Department describes as a modest but adequate standard of living, $18,000 is required. If you were to consider older children, the cost would go up and there is nothing in these figures to allow for the cost of attending school.

In many cases, the family living at or even below what the Labor Department lists as minimal standards would receive considerably less than the maximum grant under this program due to the family contribution schedule, and a great many families living on less than what the Labor Department describes as a modest but adequate income even before they start paying the cost of a college education receive nothing from the program at all to offset college expenses that range well over $3,000 a year.

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I believe that we should attack all of these problems and asked the Appropriations Committee for sufficient funds to do so. While the House included most of the funds that would have been needed, the Senate eliminated these funds in favor of increased spending in the field of health. In conference, we agreed on $2.160 billion for basic opportunity grants, or $90 million above the amount required for funding a $1,600 grant, according to administration estimates.

It was the position of the Appropriation conferees that this money would at a minimum permit a doubling of the $25,000 offset for farms and small businesses, the cost of which OE has estimated at $24 million, and using the remainder to increase the $12,500 offset for personal assets. OE estimates that the $66 million remaining could increase that offset to $17,000.

As I see it, Mr. Chairman, I don't think I have to apologize for my position because I think my record clearly shows that I have done everything possible over the years to assist the poorest of the poor in this country. But the fact is, no program can long survive if the middle class of this country perceives it to be a program that deals with a problem affecting most Americans but provides assistance only to the poor.

I think if you compare what someone can get in the way of a maximum BEOG grant if they are on welfare and also be eligible for a supplemental grant or work study, and other assistance with the situation in which a couple finds themselves if they had their kids late in life, they are a few years away from retirement and maybe they have two kids just going into college. They are living on a modest income and the only things they want to do in life are put their last kid through college and retire. But they have paid off their home and because of that they find themselves ineligible for a grant which their children must have to attend school.

That means just a few years away from retirement they have to get a lien on their house in order to put their kid through school. I don't think we can sustain that kind of program in this country and that is why I think it is critically important that this committee do whatever it can to insure that we do expand the eligibility standards and loosen up the income standards and make them reflect a little more realism. I don't think they do that now.

I know that it is not the easiest thing in the world to deal with. I don't pretend to understand fully the BEOG program. I am certainly not familiar with, to the extent I would like to be, the independent student problem for instance but I would certainly hope the committee can do something along the lines that I have described here and I thank you for your time.

Mr. FORD. Thank you very much, David, and we on this committee are grateful for the extra effort that you have put into getting money for the programs that this committee has responsibility for. I hope you will take a copy of Mr. Kornfeld's statement with you because it looks like on page 16 he has heard what you had to say.

Mr. OBEY. I have seen it and I am happy about that.

Mr. FORD. We are pleased to see it also and we are pleased that you were able to get the extra $90 million in the appropriation bill that will made it possible to expand the constituency. The point you make at the beginning of your statement about attempting to expand the constituency for the program is extremely important because I think

you are correct when you assess the future of these programs and recognize that their political viability depends on having a broad base of people who perceive them as needed programs, needed from their perspective. If the BEOG program were allowed to be more remote from ordinary working people, I am afraid that I would not support either the program or people who supported the program and our chances for expanding access to colleges and universities would not be very great.

I think your actions have been farsighted in the right direction. I believe you will find the majority of this committee is committed to supporting the initiatives that you have undertaken for us.

Mr. OBEY. I know you have been, Mr. Chairman, and I just want to reiterate again that the kinds of people who are not being served by this program are the kind of people who feel that they work very hard and really have not relied on anybody through their lives. They don't rely on the Government very often and if the only time they go to the well is to get assistance when their kid goes to college and if they find when they go the the well is dry, they are going to come to believe that Government is neglecting them and concentrating exclusively on the needs of other people.

Mr. BIAGGI. Thank you, Mr. Chairman. Thank you, David. You have expressed views that I have expressed for the past number of years and I am delighted to hear your testimony today and hopefully we will be able to have something substantial develop out of it. There is a large segment of our population that requires some assistance in order to further the kind of education we are talking about and they will be very sadly neglected, almost to a sacrificial point, and I don't think that is the intent of the Congress or of the Federal Government. We advocated pursuit of education but not at any price.

I thank you for your testimony.

Mr. FORD. Mr. Preyer has been in contact with the subcommittee on several occasions regarding constituents of his who have been denied the basic grant fund to attend school. We are very pleased to have you.

Without objection, the statement of Representative Richardson Preyer will be printed in full at this point in the record and you may proceed to add to it.

[The statement of Representative Preyer follows:]

Congress of the United States
House of Representatives
Washington, D.C. 20515

STATEMENT BY

CONGRESSMAN RICHARDSON PREYER
SUBCOMMITTEE ON POSTSECONDARY EDUCATION
SEPTEMBER 12, 1977

Mr. Chairman, I first want to thank you for the opportunity to testify at this hearing today. I know how crowded your schedule is, and I am extremely pleased that you are considering the range of issues associated with the BEOG Program.

I am particularly concerned with the BEOG Program as it affects the independent student. My interest in this matter stems from the experiences of constituents who, though barely self-sufficient, have been denied the BEOG. I presume this has occurred on the premise that the majority of the income of independent students should be going towards their education. However, it seems to me that before one can consider education, he or she must account for the basics of survival, such as food, clothing, and shelter. Understandably, there is little money left over to support college costs, and as day-to-day costs continue to rise, self-sufficiency becomes more and more improbable.

I have seen where this approach inadvertently discriminates against many independents. There is a young woman from my district who applied for a BEOG, claiming no dependency relationship, as she is an orphan. Her claimed income was $2,592, based on income received from Social Security and Veterans Benefits. She lives with an aunt and uncle during the week, and with a sister on weekends. Lamentably, her eligibility index enabled her to receive only $226.

Another young woman from my district is in a similar bind. Raised by adoptive parents, her adoptive mother died while she was in high school. She has had to quit college on at least three occasions since graduation from high school for lack of funds. She even qualified for a BEOG one year, but the grant was rescinded the next year because her eligibility index was too high.

A third woman, who represents a more common situation, has been denied eligibility despite an adjusted gross income of only $3,528.

Obviously, my sympathy is directed to the orphan and others who are circumstantial victims of bad luck. But the problem runs deeper than that, because many independent students are merely living on their own trying to make ends meet, with no particular disadvantage other than financial insecurity.

I can understand the reluctance of this Subcommittee and of HEW to offer a "carte blanche" to independent students who have gained their independent status for potentially abusive reasons. Certainly, I do not think our tax dollars should be providing grants to children of wealthy parents who claim independence to save their parents from paying for their college education.

However, there are legitimate cases which warrant our attention. A hypothetical 23 year old man who has been helping his father at the local market for four years and is now living alone, should be entitled to federal help in the form of a grant to pursue his education. To deny him this opportunity is, in essence, to deny him an education.

I want to make it clear at this point that my argument is philisophical in nature, and it is not founded on any expertise in the

area of financial aid. I would simply like to raise the issue of fairness with regard to young people whose independent financial situation precludes their attending college.

I note that Commissioner Boyer shares this same concern. In testimony before this Subcommittee earlier this year, he cited the changing demographic characteristics of college students today as compared to those of ten years ago. I believe the family contributions schedule should demonstrate common sense and flexibility, and in so doing, reflect the needs of our growing independent population.

STATEMENT OF HON. RICHARDSON PREYER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. PREYER. Thank you Mr. Chairman. I appreciate the opportunity and want to thank you for allowing me to testify today. I feel a little bit like the story about the centipede who had the gout. His 100 feet were killing him and he went to the owl, the wisest creature in the jungle to ask how he could reduce the pain and the owl said, "Reduce the number of your feet by half." The centipede said, "I can see why you are the wisest creature in the jungle. Now tell me how do I do that" and the owl said, "I can't tell you that. I just set policy."

So I am afraid what I am here for is not to tell you how to do the hard part of it—I am leaving that up to you—but to make a suggestion on the policy side.

I have been particularly concerned with the BEOG program as it affects the independent student. My interest in this matter stems from the experiences of constituents who, though barely self-sufficient, have been denied the BEOG. I presume this has occurred on the premise that the majority of the income of independent students should be going toward their education. However, it seems to me that before one can consider education, he or she must account for the basics of survival, such as food, clothing, and shelter. Understandably, there is little money left over to support college costs, and as day-to-day costs continue to rise, self-sufficiency becomes more and more improbable.

I have seen where this approach inadvertently discriminates against many independents. There is a young woman from my district who applied for a BEOG, claiming no dependency relationship, as she is an orphan. Her claimed income was $2,592, based on income received from social security and veterans' benefits. She lives with an aunt and uncle during the week, and with a sister on weekends. Lamentably, her eligibility index enabled her to receive only $226.

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A third woman, who represents a more common situation, has been denied eligibility despite an adjusted gross income of only $3,528.

Obviously my sympathy is directed to the orphan and others who are circumstantial victims of bad luck. But the problem runs deeper than that, because many independent students are merely living on their own trying to make ends meet, with no particular disadvantage other than financial insecurity.

I can understand the reluctance of this subcommittee and of HEW to offer a carte blanche to independent students who have gained their independent status for potentially abusive reasons. Certainly, I do not think our tax dollars should be providing grants to children of wealthy parents who claim independence to save their parents from paying for their college education.

However, there are legitimate cases which warrant our attention. A hypothetical 23-year-old man who has been helping his father at the local market for 4 years and is now living alone, should be entitled to

Federal help in the form of a grant to pursue his education. To deny him this opportunity is, in essence, to deny him an education.

I want to make it clear at this point that my argument is philosophical in nature, and it is not founded on any expertise in the area of financial aid. I would simply like to raise the issue of fairness with regard to young people whose independent financial situation precludes their attending college.

I note that Commissioner Boyer shares this same concern. In testimony before this subcommittee earlier this year, he cited the changing demographic characteristics of college students today as compared to those of 10 years ago. I believe the family contributions schedule should demonstrate commonsense and flexibility, and in so doing, reflect the needs of our growing independent population. Thank you very much.

Mr. FORD. Thank you. You have brought to our attention individuals who, clearly by any examination of their situation from the perspective you presented to us, would seem to illustrate that a system that does not treat them as an eligible independent student has something very basically wrong with it. It has been a matter of concern for the committee and for the Office of Education to try to figure some sort of a solution, not quite as drastic perhaps as was suggested to the centipede.

The temptation for people to take advantage of the possibilities for the independent student is so great that it leads people to expect that it will be done, that there will be some exploitation of it if the regulations are not rigid and rigidly enforced. As long as a substantial part of the academic population thinks that the program is subject to that kind of abuse, it erodes confidence in the program.

We do expect that before the end of the day today we will have some idea of an improvement of sorts, not as much as some would like, more than others would like, in the regulation with respect to the status of an independent student. We also hope that we can get a breathing period for a little while on this question while we get into it more deeply and see if we can find some suggestions that will make it possible for us, if they can't do it by the regulation, to legislate a more sensible kind of a test than we have been applying in the past.

I appreciate the fact that you have used specific cases to continually put before this committee the questions being raised about the present regulations.

Mr. BIAGGI. We appreciate your philosophy, and you have left us with the nitty-gritty, and hopefully we can respond to your philosophy and your doctrine of fairness in a substantial fashion. I have stated my views before. I have always been concerned about this segment of the population and felt that there was an inequitable situation existing. We appreciate your testimony today.

Mr. FORD. Thank you very much, gentlemen.

Now Mr. Leo Kornfeld, Deputy Commissioner of Education for Student Financial Assistance, Office of Education, accompanied by Mr. William Blakey, Deputy Assistant Secretary for Legislation—Education, and Mr. Peter K. U. Voigt, Director, Division of Basic and Student Incentive Grants.

Without objection, your prepared statement presented by Mr. Kornfeld will be incorporated in the record in full. I would like to deviate

from our normal procedure for just a moment because Mr. Biaggi has a bill under suspension on the floor that he has to leave to attend to, but he wanted to have an opportunity to ask you some questions in the brief time he has available. If you don't mind, we will proceed with the questions of Mr. Biaggi.

Mr. BIAGGI. Thank you, Mr. Chairman. Mr. Kornfeld, the question of proprietary schools has developed into a critical problem because of the contemplation of the Office of Education in an effort to promulgate regulations that would limit the non-high-school degree-bearing students to 5 percent. I don't know anywhere along the line where the legislative intent of the Congress indicated that to be the objective.

The fact is these proprietary schools have been functioning for some time without this contemplated limitation and I have to assume satisfactorily. They are subject to the same supervision other schools are, and to the extent that your office supervises them where they violate any of the regulations or requirements, they are subject to criticism and suspension and termination. I have a number of questions, but what bothers me is, how did this proposed regulation develop, what triggered it, and why and whom? Those people out there had every right to believe they were operating properly as a result of experience and approval. They had to assume approval because there was no disapproval, and they were permitted to function and expand and permit people into their schools without any percentage limitation. Then suddenly after operating for a period of time, their continued existence is threatened. I don't understand it.

Mr. KORNFELD. First, Congressman Biaggi, as you may know, I am new in this position, very new. I was sworn in a little over a month ago, August 7.

Mr. BIAGGI. Let me congratulate you and wish you well.

Mr. KORNFELD. Thank you. However, since I am new, I can't answer your specific questions as to how this came about and what the history of the situation is. It is not in a proposed rule. It is something that has been discussed in another Bureau. The resolution of this whole problem is not within the control of the Bureau of Student Financial Assistance, but we are very concerned because once this rule comes out, we are obligated to live with it and regulate it.

Mr. BIAGGI. While we are on that score, I am aware of the delineation but are there subordinate divisions?

Mr. KORNFELD. It is another bureau entirely. The whole problem of institutional eligibility and accreditation is under the Bureau of Continuing and Higher Education. However, since it does affect our program so much, we are concerned, too. Our present plan is that we are going to look into it. No rule is going to come out at this point regarding this 5 percent or de minimis interpretation.

It is something that has been seriously discussed within the Bureau. However, at this point we are going to look into it and try to figure out a way to handle that entire problem of the non-high-school graduate in proprietary schools.

Mr. BIAGGI. In the light of your response let me pose a number of questions for the record. I understand we have a representative of the bureau in question here and the questions will be posed to him as well. I would appreciate it if you can't respond now that you submit responses to these questions. You don't have to write them, I will give you copies of them.

You stated initially that you intended to publish regulations limiting eligibility of proprietary schools for the basic grants program to schools which enroll less than 5 percent non-high-school graduates. If so what is the statutory authority for such a regulation? That last sentence is the crucial one. I have not found any statutory authority.

You have not as yet applied the rule?

Mr. KORNFELD. We have not.

Mr. BIAGGI. I am informed by counsel that some schools have already been subject to this rule and are threatened with discontinuance.

Mr. KORNFELD. Let me try to respond to that, Mr. Biaggi.

Mr. BIAGGI. I understand that you are brand new.

Mr. KORNFELD. Right. I don't want to use that as an apology however.

Mr. BIAGGI. We have all been brand new and you will be here 4 years and will still learn.

Mr. KORNFELD. The usual way this comes about is through an HEW audit of that institution the report of which is then reported back to us and our bureau is responsible for resolving an exception noted in the audit. The only cases I know of that have come to us is where the violation of the non-high-school percentage was in the 30-, 40-, 50-percent category. It was not a minor infraction of the rules as we are now interpreting them.

Mr. FORD. Will you yield? Actually it came to my attention, unfortunately after I had my conversation with you last week, that in at least one regional office there has been widespread publicity given to anticipation of a regulation yet to be published which was disseminated to people. They tell me the way you get this information is if you are in the process of reapplying for certification because the ownership or the location of the school has changed.

At the time of the application for recertification, people are being told this regulation is so nearly complete and frozen in concrete that they are being warned that unless they meet the requirements of this not-yet-promulgated regulation, they won't be qualified.

Now if the regulation were to go into effect as it has been indicated to people, apparently it could have the effect right now of closing some schools. The thing that I guess has us really puzzled is where any of us on this committee or on counterpart committees in the Senate have said anything that could give anybody at the Office of Education the suggestion that there is a legislative history developed which indicates that we wanted to disqualify proprietary schools or that we wanted to treat the non-high-school graduate as harshly as this would treat them.

Quite the contrary, I might say. There have been numerous things done by the committee legislatively in the last few years that indicate that, to the degree we could do so, we would treat the high school diploma as an irrelevancy in determining what the educational needs of a person were and encourage institutions to do that.

We have taken a number of initiatives to encourage institutions to develop education programs which are very likely to appeal to large numbers of people well beyond high school graduation age who may have been out in the work force for a long time without the benefit of a high school education or equivalent. I don't ever remember anybody urging that there should be some stopoff point where you go back

and get the equivalent of a high school diploma as a condition precedent to participating in the Federal programs.

Yet someone over there toying with this regulation in meetings with people who raise questions purports to be quoting from legislative history. We can't find the history nor can counsel for the Senate committee or the House committee. Frankly, we would like you to find out who have they been talking to up here to get this "history."

Mr. KORNFELD. Mr. Chairman, John Proffitt just joined us and he is the person in charge of the bureau involved in accreditation eligibility. Perhaps he could answer some of your questions.

Mr. BIAGGI. I would like to get back. You said, Mr. Kornfeld, in the recertification process, while the audit was going on, you found there were schools with 30-, 40-, 50-percent non-high-school degree-bearing students. That is in violation of what inasmuch as we don't have a rule.

Mr. KORNFELD. Violation of the statute, which as I understand it, states that proprietary school admit high school graduates or their equivalent. The programs have to be for high school graduates or equivalent in order to be eligible for the basic grant program, as well as the campus-based programs.

Mr. FORD. There is a problem. There is a certification handbook that has been approved by OE, on file with OE and has been in effect with instructions for the proprietary schools to tell them how to qualify. It clearly indicates there are two kinds of students in proprietary schools that will be dealt with. One is the so-called regular student and the other is the special student. The requirement has been interpreted in the past as saying you have to admit as regular students to your school people who are high school graduates or equivalents. There is no prohibition against having, in addition to the regular students, special students who don't in fact have those qualifications. That is in the handbook that has been distributed to applicants all over the country with the permission of and collaboration of OE.

Now, the question comes up, what have we done legislatively that would lead somebody in OE to determine that the rules have changed?

Mr. BIAGGI. You are right on that point, Mr. Chairman. The equivalency is not to be equated with the special student. That is another category. Under that category the schools have increasingly admitted a number of people which I think is salutary. They take with them in real-life experience which has its equivalency. It is acknowledged as sufficient in the academic field more and more every day. Now if we have no problem with special students at 5 or 10 percent, then why do we have a problem with them at 20 or 30 percent? It would seem to me it would be our objective to induce as many of those people into school as possible.

But I repeat the same question that was raised before by the chairman, where along the line has anyone found the intent of the Congress to place a limitation. And how do you make your own point of demarcation under the current regulations rather than submitting a proposed regulation?

Mr. KORNFELD. I would like to ask Mr. John Proffitt to respond to your questions.

STATEMENT OF JOHN R. PROFFITT, DIRECTOR OF THE DIVISION OF ELIGIBILITY AND AGENCY EVALUATION, OFFICE OF EDUCATION

Mr. PROFFITT. Thank you. I am John Proffitt, Director of the Division of Eligibility and Agency Evaluation of the Office of Education. Unlike Mr. Kornfeld I am not brand new in government, so I speak from a background of some experience.

First of all there are two statutory definitions regarding postsecondary proprietary schools. First is the statutory definition contained in section 491 of the Higher Education Act which defines a "proprietary institution of higher education." Now that statement reads that a proprietary institution of higher education means a school which provides not less than a 6-month program of training to prepare students for gainful employment in a recognized occupation and which meets the requirements of clauses I and II of section 1201A. Clause I requires high school graduation or the equivalent. So in arriving at a definition of an eligible proprietary institution of higher education, we have to consider section 491 and section 1201A. Essentially, those two sections specify that such a school be one which enrolls as regular students only individuals with a high school diploma or the equivalent, and offers a program of at least 6 months in duration.

Now, a school which is defined as a proprietary institution of higher education is eligible for the Basic Educational Opportunity Grant Program. Eligible students enrolled in an eligible proprietary institution of higher education are eligible for the basic grant program. This definition was first introduced into the statutes by Congress in 1968 in order to provide eligibility for proprietary institutions for the College Work Study Program and the National Defense Student Loan. Its applicability was broadened in 1972 to provide eligibility to proprietary schools for the basic grant program under the terms of that definition. Again, I emphasize that such a school has to admit as regular students only high school graduates or persons with equivalency, and within a program of at least 6 months in duration.

The second statutory definition pertaining to both proprietary and nonproprietary schools is the definition of a vocational school. This definition does not contain an admissions requirement of high school graduation, but does require that a school offer a program of at least 3 months in duration. As we have attempted to administer these two statutory definitions relative to proprietary schools—that is the definition of a proprietary institution of higher education and that for vocational schools—we have made two different determinations for each school.

Most proprietary schools are eligible under the vocational school definition. They offer programs of at least 3-months duration and, therefore, those students in that school are eligible under the guaranteed Student Loan Program. In such cases, we issue a separate eligibility certificate to those schools, certifying that they are eligible for the guaranteed student loan program and for programs under the Vocational Education Act.

We issue a second certificate of eligibility to the school if any portion of that school's program meets the definition of a proprietary institution of higher education, but the second certificate of eligibility is limited only to that portion of the school which does meet the statutory definition of enrolling as regular students only high school grad-

uates or the equivalent, and which offers a program of at least 6 months duration. Therefore, many proprietary schools have met the eligibility test of both statutory definitions and, consequently, have received two certificates of eligibility.

I brought along several copies of these two eligibility certificates in which we state very clearly to the institution that, as an eligible institution under the definition of a proprietary institution of higher education, it is eligible to apply for participation only in certain programs administered by the Office of Education. Listed are the national direct student loan program, college work study program, the supplemental educational opportunity grants program, and special programs for disadvantaged students—talent search, upward bound, and special services. The next statement reads, "Students who have been accepted for enrollment or are in good standing at this 'eligible institution' are also eligible for basic educational opportunity grants. Please note, however, that this eligibility applies when a school remains under the current ownership." And there we have underlined "only to accredited occupational programs which require high school graduation or the equivalent for admission and are at least 6 months in length."

[The certificates referred to appear in the appendix.]

Now, this problem did not arise until the statutory provisions concerning the funding programs for which proprietary institutions of higher education are eligible were broadened. As that revision of the statute developed, we had to sort out for ourselves an appropriate approach to administering the eligibility process under these two statutory definitions. In terms of the history of this matter, I do believe that some schools have become somewhat confused regarding variances in interpretation of the Office of Education position by various spokesmen for the Office of Education. We have sympathized, at times, with institutions regarding their confusion about this matter. However, there have been some clearcut statements by the Office of Education on this matter, Mr. Chairman.

For instance, in the regulations of the basic educational opportunity grant program published in November of 1974, there was this statement—

> However, an otherwise eligible program does not lose its eligibility if its enrollment includes a small proportion of non-high school graduates admitted as special students. In such a case special students are also eligible for basic grants.

The point that the regulations were trying to make to proprietary institutions is that there is a statutory requirement specifying admission only of high school graduates or the equivalent. However, the Office of Education would accept a small proportion of non-high-school graduates in programs for which the Basic Educational Opportunity Grant Program, as well as the other programs that I mentioned, would apply.

In the basic grant handbook of 1976–77, is the statement again—

> An otherwise eligible program does not lose its eligibility if its enrollment includes a small proportion of non-high-school graduates who are admitted as special students as long as these students were admitted as a result of the requirement being waived. Enrollment of an excessive proportion of non-high-school graduates in a program could result in an investigation by the accreditation and institutional eligibility staff and possible repeal of eligibility for such a program.

Again, in a letter of interpretation dated June 8, 1973, to a representative of a large number of proprietary schools, we stated this:

> Among the requirements listed in the law is the requirement, "admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate."
>
> The school's catalog—that is the school in this case, a proprietary institution of higher education—should reflect the principle that the school's admission policy is confined to high school graduates or those persons holding recognized equivalency certificates. We do not believe that the law prevents a school from admitting an occasional special student if the admissions director believes he or she deserves special consideration. However, students accepted under special considerations should be the exception. The school's catalog should not advertise exceptions to its regular admissions requirements unless the school is prepared to offer a different program to these special students. The admissions requirements for each separate program should be clearly defined in the school's catalog.

What I am afraid we have had here has been the emergence over the last several months of a great deal of confusion regarding what we were trying to do through the regulation process. What we are trying to do is to further define by regulation, if possible, this small percentage which we have been talking about at least since 1973 that would be admissible in those programs which a proprietary institution of higher education advertises enrolls only high school graduates or their equivalent.

I suggest that the statute is clear in specifying that only those programs which enroll high school graduates as regular students are eligible for the basic grant program, and we have dealt with this matter by issuing two separate eligibility certificates to many schools. Thus, instead of saying to schools, "You are ineligible because not all of your students are high school graduates or the equivalent," we have said two other things to them. One is that we will recognize you as eligible only under the guaranteed student loan program for those programs that do not require high school graduation. We will establish your eligibility for the national direct student loan program and the others, including the basic grant program, in the case of those programs that do admit only high school graduates, or the equivalent, as regular students. We will not make you ineligible if you take into your so-called regular program some non-high-school graduates, due to the fact that most institutions invariably have a statement in their catalog noting that the admissions director may waive the high school graduation requirement if he believes an individual can successfully benefit from the course of study in that particular program.

We have not been trying to limit the eligibility status of any institution except within the confines of those two statutory definitions. We have found in the past year that as a result of some audits of institutions that some institutions—and we don't know the numbers that confront us here—some institutions obviously have gone beyond the small percentage of non-high-school graduates which we have indicated in the past we would accept. And so we have come to the conclusion that if we are going to continue to allow for any variance of the high school admission requirement that the time has come when we need to define, for the institutions' benefit, what percentage of variance, or what kinds of variance we will permit. To date, we have not found, through audit, any proprietary institution which would conform with a strict reading of this statute—that is, which would have no high school graduates.

At the same time, we have not found any such schools which have just a small percentage of non-high-school graduates or their equivalent.

The problem schools have been so far beyond a small percentage of non-high-school graduates in their regular student category that there is just not any question that they are not in conformity with the statute, nor are they in conformity with any kind of reasonable test regarding this matter which we could anticipate putting into any proposed regulations.

What we have intended to do was to publish notices of proposed rulemaking and hold public hearings around the country on this matter. We are not locked into any kind of position concerning what the percentage of variance should be or, indeed, if there should be a percentage. It could well be that the ultimate legal determination would be that we could not permit any percentage variance under the current statute.

Mr. FORD. If your present rigid interpretation of the statute is a correct one, that there is not any authority for any percentage, what you are dealing with is the question of how many angels can dance on the head of the pin. It is the same problem that the Supreme Court has had in one-man, one-vote decisions examining apportionment of congressional districts across the country. The court has said that some variance from absolute zero obviously could be permitted but no variance which is deliberate can be permitted. In other words, if you try to work it all out and by accident you end up with a variance, that does not offend the Constitution, but if you try to have a 1 percent or 2 percent or any preconceived percentage variance up front, then you are violating constitutional neutrality.

Lawyers have wrestled with that all across the country over and over again. How can the court say on the one hand that no variance is permitted if you understand it is happening, but a variance is permitted if it just happens. That seems to be what has grown up here—a variance has been permitted without anybody ever trying to put down on paper what kind of percentage is an acceptable variance.

Mr. PROFFITT. That is correct.

Mr. FORD. And now if you try to put down a 5-percent variance, you will test the question quickly of whether you can vary at all. What I suppose is bothersome to many of those people, however—and with your letter to Bernie Ehrlich, who represents many of these schools, in August of this year you sent him a number of enclosures. One was page 17 of your publication, "Basic Grant Training Material" dated back in June 1972, which states under the title of "Eligible Program"—

> In addition to being enrolled in an eligible institution, a basic grant recipient must be enrolled in an eligible program within that institution.

Skipping down to the next paragraph—

> It is important to note that students who are not enrolled in an eligible program will not be eligible to receive basic grants. Another point to note is that a student who receives a basic grant does not have to be a high school graduate or its equivalent, however, he must be enrolled in a program of study which normally requires a high school diploma as a prerequisite for admission for its regular students. In a case such as this, the fact that the institution allowed the student to enter such a program can be considered as institutional recognition of the student as being the same as a high school graduate.

Now, that is a regulation from 1973 and if that is not a clear, open invitation for proprietary schools to admit and qualify anybody that can participate in a program, I can't imagine how you could make it

any broader. There is no hesitation or reservation suggested in this training material here which, as late as last month, you still thought was current enough to send in response to a question of statutory interpretation. So you still regard it as a legitimate interpretation of the statute, I take it?

Mr. PROFFITT. No, sir, I did not send that to Mr. Ehrlich as an interpretation. I sent that to him as a compilation of material pertinent to this issue which he asked us to send to him. This statement is contained in a 1973 training manual for the basic grant program. It says one thing. Our eligibility certificate, which is the formal notice to the school about its scope of eligibility, said a different thing. It says what I have indicated to you. This was an unfortunate bit of confusion or disparity, I admit, in what the Office of Education was indicating to people and to institutions, but this did not have the force of regulation.

The formal, responsible indication of scope of institutional eligibility came from the eligibility certificates, and although this seeming contradiction was an unfortunate and confusing occurrence, it took place in 1973 and has been superseded by more up-to-date basic grant handbooks which I think have corrected that earlier statement.

Mr. FORD. So you are saying the statement was not correct in 1973, not that that was a correct statement in 1973 and is no longer correct because we have changed the law? Nothing has happened in effect to change the law from 1973, has it?

Mr. PROFFITT. Nothing has happened to——

Mr. FORD. With respect to proprietary schools, we have changed that section of the law but not with respect to proprietary schools.

Mr. PROFFITT. You are correct.

Mr. FORD. And you would not draw from the way in which we changed the section that our failure to change everybody in the section at the same time was some indication that proprietary schools would be treated differently than before? Particularly if you look at the report from the committee, you will find we spelled out in the conference report language from the House report that said specifically that it was not intended that there was going to be any legislative change in the status of proprietary schools.

Mr. PROFFITT. The way we are administering the eligibility determination for proprietary schools today is the same way that we were administering it prior to the passage of the 1976 amendments. Prior to then, we were notifying proprietary schools which met the statutory definition of proprietary institutions of higher education that—as you will note on the eligibility certificate—only students enrolled and in good standing in the programs which admit as regular students—only high school graduates or the equivalent are eligible for the basic grant program. So, we are not making today any difference in our interpretations and determinations of the eligibility provisions of the statutes regarding proprietary schools today from the manner in which we were operating in 1973, 1974 and 1975.

Mr. FORD. You would be making a significant change, however, if you attempted to adopt some arbitrary percentage of special students that was permissible and therefore anything outside of that was impermissible. There is just no basis for getting to that kind of a distinction.

Mr. PROFFITT. We would be making a difference between what we have been saying, which is that was a "small percentage" is acceptable, to defining that small percentage.

Mr. FORD. We would not want to in any way do anything that would have a chilling effect on people having access to programs that one type of person is taking for a credit toward baccalaureate degree and another person is taking to improve job skills or because it is directly related to some job promotion opportunity. He might have a good deal of experience in a particular field—it might be accounting or something of that kind—and yet he did not take accounting in high school. But he has been doing it for years in business and goes back now to get a skill. A secretary goes back and learns medical terminology to become a medical stenographer instead of just a plain stenographer. That means more money, particularly if she is working for the Government or a large corporation. These sorts of things would jeopardize the accreditation of the institution if they tried to accommodate this type of student.

That clearly is not the intention of anybody that is involved legislatively. I would hope that, before you publish a proposed regulation, you bring it to us and talk about the possibility of legislating a solution to the problem if it continues to be a problem, but as I see it there is no problem except to the extent that somebody over there in your shop wants to make one. Now if you just stop telling people there is going to be a regulation in the future that will probably make them ineligible—they will calm down perhaps after a while. But as it stands now, it is who do you believe. Should I believe that my business is going to be in jeopardy or should I believe that we can continue operating?

I have the impression that the communications coming from regional offices and from your office over there have been unambiguous and direct and that they have created a clear understanding in the minds of many people that you are about to fall on them. Well, it is indicated here that you are not about to fall on them, at least not in the next few weeks.

Mr. KORNFELD. Mr. Chairman, we have yet to decide whether we are going to go for proposed rulemaking in this particular issue or go in for legislation. It is a matter that is being studied within the Department at this point and it might very well be that we will be going for legislation rather than rulemaking.

Mr. FORD. Counsel showed me a letter to Senator Morgan of North Carolina dated August 1 of this year from Secretary Califano which says on page 2:

> Consequently the Office of Education has taken the position that in such cases of technical noncompliance eligibility would not be terminated. To be more specific as to what constitutes a de minimis number, the Department intends to issue regulations which will define the number, percentage of non-high school graduates which may be enrolled as regular students in an eligible program.

[Letter referred to appears in appendix.]

I suggest that you are legally incapable of doing what Joe Califano said you are going to do here. I don't think you have any legal authority to do what he says you are going to do. If you want that authority, I think you should send a piece of legislation over here and let us take a look at it. Then we can come down on one side or the other and legislate the thing clearly, but I hope you won't do anything that will have the effect that the rumors are already having on continuing education by regulation. I think the reaction would be very strong in both the House and Senate inasmuch as there has been ab-

solutely no discussion at any time that could remotely be interpreted as an intent by any individual member of the committee to be more rigid with or change the status of so-called proprietary schools as eligible institutions for students using these Federal programs. In short, I guess I am asking you not to issue a regulation unless you don't think it is going to do anything. And if it is going to do something, let us legislate it.

I don't think you have got a very firm foundation for doing what whoever prepared this letter for Mr. Califano had in mind. It is gracious enough to say, "Before such regulation is to become final, hearings will be held and the public will be given an opportunity to comment on the proposed regulations."

That is nothing more than a statement on the requirements. I think probably, if there are those who believe that the purpose or the effect of that kind of regulation is a desirable thing and want to advocate it, the way to do it is by legislation. Would you say it is safe to tell people that until we have heard or seen something published in the Federal Register, they cannot anticipate that there is about to be regulation, 5 percent or 3 percent or 8 percent or something of the kind?

Mr. PROFFITT. Yes, sir, we will certainly take that back to the Commissioner. How much of a problem we have though in responding to those school institutions where there is definite audit results indicating that a school is not now in compliance with the statute by a considerable amount of variance puts us in another kind of dilemma.

Mr. FORD. Well, I don't like to second guess the lawyers that are involved but I would find it interesting litigating with you. If you had a practice that allowed me to get in a particular position, in good faith with an assumption this is the way the game is being played, and then you try to throw a new rule at me, after I developed a student population consistent with what I thought the rules were, and tell me, "That student population doesn't look right; your school is not eligible because you let the wrong kind of people get into it."

This kind of narrow interpretation flies right in the fact of the philosophy of lifelong education which is that, if such a prerequisite gets in the way of someone who should have access to a form of learning that has value to that person at that time in life, it is an irrelevancy. That is the way education is going.

If you recall the last time we fooled around with this section what we did was make absolutely sure—because the question had been raised with respect to community and junior colleges that—they were going to be able to accept students without regard to their high school equivalency or high school graduation. I think it was purely an oversight that we did not tidily decide that if you are going to do this with one category of institution you examine how all the others are.

I am sure that we could consider this legislation, if it is deemed to be necessary, but one thing I want to leave with you. I hope we can have a commitment from you that, if you are getting ready to do anything with this, you would take advantage of the opportunity to have your people meet with our people from this committee and the Senate committee before you let the other shoe drop. It might make it easier for everybody to understand what is happening and perhaps be supportive of what is happening.

Mr. PROFFITT. Yes, sir, you have that commitment.

Mr. FORD. Thank you very much. We will submit these questions that Mr. Biaggi wanted to have asked dealing with the 5-percent rule. I think you pretty well covered all of them but since he has the specifics it probably will be very easy for you to respond by letter to me as the chairman to Mr. Biaggi's questions.

We will see this gets to you right away.

Mr. PROFFITT. Thank you.

Mr. FORD. Thank you very much.

We got way off the track, Mr. Kornfeld, and we want to get back now to your testimony and I thank you for letting us shift the rules on you after you changed your position.

[Prepared statement of Mr. Kornfeld follows:]

FOR RELEASE UPON DELIVERY

Mr. Leo L. Kornfeld
Deputy Commissioner
Bureau of Student Financial Assistance
U.S. Office of Education
Department of Health, Education, and Welfare

Before the
Subcommittee on Postsecondary Education
Committee on Education and Labor
House of Representatives
Monday, September 12, 1977
10:00 a.m.

Mr. Kornfeld is accompanied by:

William A. Blakey, Deputy Assistant Secretary for Legislation (Education), HEW

Peter K. U. Voigt, Director, Division of Basic and State Student Grants, Bureau of Student Financial Assistance, Office of Education, HEW

TESTIMONY

FOR THE 1978-79 FAMILY CONTRIBUTION SCHEDULES

Thank you for the opportunity to be with you today to discuss the Basic Educational Opportunity Grant Program and to share with you our proposed changes in the Family Contribution Schedules for the 1978-79 academic year.

INTRODUCTION

Before discussing the Family Contribution Schedules, I would like to give you a brief outline of the progress of the program during the four academic years it has been in operation. As you know, the Basic Grant Program was established by the Education Amendments of 1972 and began operations in the 1973-74 academic year with an appropriation of $122.1 million. During that year approximately 185,000 students received awards. The program has experienced dramatic growth since that first year of existence, and during the current academic year we expect that approximately 2 million students will receive grants totaling $1.7 billion. I have included in my testimony three charts to provide you with an illustration of the growth of the program. The first, listed as Exhibit I, shows the growth in program expenditures during its four completed years of operation with estimated amounts shown for 1977-78 and 1978-79. Exhibit II shows the growth in the number of applicants for those years, and Exhibit III shows the growth in the number of recipients. Additionally, I am submitting for the record a number of

other tables describing various characteristics of the Basic Grant applicant population. These are included in my testimony as Appendix A.

SIMPLIFYING FINANCIAL AID APPLICATION PROCEDURES:

ADOPTION OF A COMMON APPLICATION CALENDAR AND COMMON DATA ELEMENTS

As you know, the Office of Education, along with other segments of the financial aid community, has been engaged in efforts to simplify financial aid application procedures for students. There are two aspects of this effort which will have a significant impact on Basic Grant Program operations during the 1978-79 academic year which I would like to discuss with you today, since they will affect your review of the Family Contribution Schedules. These issues concern the adoption of a common calendar for the distribution of student financial aid applications and the use of common data elements on various student financial aid application forms.

Over the past several years there have been extensive discussions in the postsecondary community concerning various problems in the financial aid process. The National Task Force on Student Aid Problems (also known as the Keppel Task Force) was established to study the area of financial aid and made recommendations for improving the system. Two of their recommendations would have had a significant impact on the Basic Grant Program. The first recommendation was that a common financial aid application should be established for use by all students. Secondly, the Task Force recommended that there should be a common calendar for the

complete financial aid process. The Office of Education agreed in principle with both of these recommendations. However, it was felt that there were problems to be overcome before they could be adopted. With regard to the common form, the Basic Grant Program did not feel it could use the proposed form because it requested considerably more information than was necessary for making a determination of a student's eligibility for a Basic Grant award. With regard to the common calendar, the proposed September date for the distribution of forms would have meant that estimated income data would be reported on the form. Given the unreliability of estimated information, this was not seen as acceptable. However, the Keppel Task Force also proposed a "compromise" calendar that would call for the distribution of forms in early December with processing of completed applications to begin in January. This was the calendar that the Basic Grant Program had been using for several years.

In late 1976 there were increasing indications that the compromise calendar was acceptable to a significant portion of the postsecondary community. This was a highly significant development since it meant that actual full year data could be collected on the various forms, and therefore would be acceptable for use by the Basic Grant Program. In May of this year Secretary Califano announced that data necessary for a determination of Basic Grant eligibility could be collected on other parties' forms. This data would be transmitted to the Basic Grant Processor, who would produce an official notification and send it to the student. As a result of this process, a very large number of students

would be able to receive consideration for a Basic Grant award without having to submit a Basic Grant application. It is hoped that many students would be able to apply for institutional, State and Federal aid by completing a single form and we estimate that this approach will reduce the number of Basic Grant applications to be filed by 2.5 million.

This rather extensive background brings me to the problem at hand. The Basic Grant Program and the agencies whose forms will most likely collect data for use by Basic Grants have been working for a number of months to arrive at common definitions for the data elements. This process has been completed and a common set of instructions has also been achieved.

In order to have forms ready and available for national distribution in early December in accordance with the agreed upon calendar, the need analysis services require approximately three months of lead time for printing applications, instructions, and other informational materials, as well as for setting up the procedures for transferring application data to the Basic Grants processor. This lead time requirement means that the data elements will have to be established as final before the October 1 approval date for the Family Contribution Schedules. If any of the data elements are changed as a result of the discussions on the Schedules, it is highly likely that the timetable for the 1978-79 application process would be severely delayed. Therefore, we are requesting your concurrence that the current data elements be maintained for use in the 1978-79 Family Contribution Schedules and that no additional data elements be added. Of course it will still be possible to make

adjustments in the Schedules through the various offsets, allowances and assessment rates. In previous years it has been in these areas that the majority of changes have been made. For example, there have been revisions to the family size offsets, asset reserves, and the approach to assessing farm and business assets. In each of these cases it is not the data elements that have been affected, but rather the method of calculating the expected family contribution.

We have submitted for the record as Appendix B a list of the current data elements that are needed in the determination of Basic Grant eligibility. If it is agreed that these are the key elements upon which to base the Family Contribution Schedules, we shall continue on schedule with the development of the simplified student financial aid application procedure for 1978-79.

PROPOSED CHANGES IN THE FAMILY CONTRIBUTION SCHEDULES FOR 1978-79

At this time I would like to discuss briefly the changes we are proposing for the Family Contribution Schedules for the 1978-79 academic year. These changes, reflecting some of the concerns which have been expressed about the program during the past year, have been published as an NPRM on July 12. However, I would like to review them at this time for the record.

1. TREATMENT OF FAMILY SIZE OFFSETS

The proposed amendments to the Family Contribution Schedules provide a 6 percent increase in the family size offsets to be used during the

1978-79 academic year. This increase in the allowance for a family's basic subsistence expenses is an estimate and will be changed in accordance with the actual increase in the Consumer Price Index published by the Bureau of Labor Statistics at the end of the year. The intent of the increase is to take into account inflation in the basic cost of living during the current year. This adjustment in the schedules has been made annually since the inception of the program.

2. REVISION OF THE CRITERIA FOR DETERMINING THE "RESPONSIBLE PARENT"

Two of the proposed changes for 1978-79 Family Contribution Schedules are part of the effort to develop common data elements for the Basic Grant application and the applications of the major need analysis services. The first is a revision of the criteria for determining, in the case of a student whose parents are divorced or separated, which parent's adjusted family income shall be considered in computing Basic Grant eligibility. The current Basic Grant regulations require income information from the parent who most recently provided the greater portion of the student's support. The proposed revision, which would provide consistency with the procedures of the major need analysis services, would require income information from the parent who has custody of the student, or, in cases in which the term "custody" is no longer applicable, from the parent with whom the applicant resided for the greater portion of the twelve-month period preceding the date of the application. If the applicant did not reside with either parent during

that period, the income of the parent who is providing the greater portion of the student's support shall be considered.

3. REVISION OF THE CRITERIA FOR DETERMINING WHEN THE FINANCIAL CIRCUMSTANCES OF A STEP PARENT SHALL BE CONSIDERED

The second item relating to the effort to develop common data elements is a revision of the criteria for determining the circumstances in which a step parent's income and resources shall be considered in Basic Grant eligibility computations. Under the procedures set forth in the 1977-78 Family Contribution Schedule, the step parent's financial information is reported only when the applicant has resided with the step parent and parent during the base year or the calendar year following the base year. (No specific length of residency is stated.) Currently, the major need analysis services request financial information from the step parent in all cases. However, in using the data provided by the need analysis services to award aid under the campus-based programs, the financial aid officer has the discretion to disregard the income and asset information of the step parent if he feels the circumstances of the applicant warrant its exclusion. Because of the formula nature of the Basic Grant Program, this discretion for the financial aid officer does not exist.

In developing a uniform method for determining when to assess the income and assets of a step parent, the need analysis services and the Basic Grant Program have attempted to establish criteria which would demonstrate a financial relationship between the applicant and a step parent

which could be considered equivalent to that between an applicant and a parent or guardian. Under the proposed revision, agreed upon by the Basic Grant Program and the need analysis services, a step parent's financial information would be required if the applicant resided in the step parent's home for six weeks or more during the base year or the calendar year following the base year. Additionally, the revision would also require that the step parent's financial information be included if he or she had contributed more than $600 per year to the applicant's support during the base year or the calendar year following the base year.

4. LOSS OF UNEMPLOYMENT BENEFITS AS A PERMISSIBLE REASON FOR FILING A SUPPLEMENTAL FORM

The Supplemental Form is intended to allow an applicant to use estimated income data in filing a Basic Grant application when a major change has taken place in the financial strength of the family. The conditions under which the form may be filed has been limited to only those cases which are most likely to result in drastic changes in family income. One of these conditions is the loss of employment by a parent of a dependent student or by an independent student or spouse. Program experience has indicated that the expiration of unemployment benefits has for many applicants constituted a change in financial circumstances equally as serious as the previous loss of employment. To permit this loss to be reflected in Basic Grant eligibility computations, we are proposing to amend the 1978-79 Family Contribution Schedules to include the loss of unemployment benefits as a permissible condition for filing a Supplemental Form.

5. LOSS OF ASSETS RESULTING FROM A NATURAL DISASTER IN A NATIONAL DISASTER AREA

In completing a Basic Grant application, the applicant or the applicant's parents must provide a listing of asset amounts, including cash on hand in savings accounts, checking accounts, and trusts, and the current market value of securities, real estate, home, and other property. Corrections in reported asset amounts are permitted only if an arithmetical error has occurred or if the information submitted was inaccurate for the date on which the application was submitted.

We are proposing a technical amendment in the regulations to provide that a revision in previously reported asset amounts may be submitted if the applicant or the applicant's family has suffered a loss of or damage to assets resulting from a natural disaster in an area which has been declared a national disaster area by the President.

PROPOSED REVISED DEFINITION OF AN "INDEPENDENT STUDENT"

I would now like to turn to a discussion of the new proposed definition of the independent student, which was published as a proposed regulation on July 12, 1977.

Before reviewing the specific proposals, however, I would like to note that the determination of who should be considered as independent of parental support to help pay for a student's educational costs has been a complex and controversial issue within the financial aid community for

a number of years. While it is generally agreed that primary responsibility for financing a student's education should rest with the student and his or her family, it is also well known that there are individual students for whom it would be unreasonable to expect a parental contribution.

At the same time, during past years, there appeared to be no clear consensus as to how to identify those cases when parents cannot be expected to contribute to postsecondary expenses. In this context, the higher education community has become increasingly concerned that the definition of the independent student currently in effect for the major Federal aid programs is not a satisfactory means of determining whether a student is truly self-supporting.

As you know, the current regulations for the Basic Grant Program and for the three campus-based programs define an independent student as one who, during both the year for which aid is requested and the prior calendar year, has not been claimed by any person except his spouse as an exemption for Federal income tax purposes, has not received financial assistance of more than $600 from his parents, and has not lived for more than two consecutive weeks in his parents' home.

In recognition of concerns voiced by the aid community and in light of increasing indications that the intent of the present definiton to maintain parental financial responsibility may be readily circumvented by

those parents who choose not to claim a student as a tax exemption during the base year in order to qualify the student as an independent applicant, the Office of Education undertook steps to develop a revised definition which would be responsive to these issues. As part of this effort, the Office of Education solicited the advice and counsel of the financial aid community by issuing a notice of intent in the Federal Register on November 29, 1976. The public was invited to comment on the definition in its current form and to suggest any changes which would reinforce the concept that the primary responsibility for financing the cost of postsecondary education rests with the student and his parents, without penalizing the truly independent student and without being unduly difficult to administer. All comments which were received, both by mail and at the five hearings held in various cities, were given careful consideration before the proposed modification of the definition was drafted.

In addition, the Office of Education held an invitational seminar attended by representatives of the financial aid community to discuss possible alternatives for a changed definition of the independent student. In response to public comments and discussions, the Office of Education issued the proposed regulation which reflected the general consensus of comments received at that time.

Specifically, the major proposed modifications to the current definition of the independent student are to:

1. Extend the Federal tax exemption criteria to apply for two calendar years prior to the year for which aid is requested, rather than one calendar year.

2. Extend the number of weeks an independent student may reside with his parents during the year for which aid is requested and the prior calendar year from two weeks to six weeks.

Shortly after its publication in the Federal Register copies of the proposed revision were mailed to all institutions participating in the Basic Grants and campus-based aid programs, and comments were solicited. Additionally, institutional representatives, students, and any other interested parties were invited to present their views at a hearing here in Washington on August 8.

As might be expected with such a controversial topic, the proposed revision of the independent student definition has generated a good deal of response. While diverse opinions have been expressed on the content of the revision, the commenters representing the major educational associations and national need analysis services have been unanimous on one point. All of them agree that the current definition should remain in effect for the 1978-79 academic year and that any changes which ultimately are made in the definition should not become effective until the 1979-80 academic year. The reason for the apparent unanimity on this point stems from the time requirements necessary for the publication of institutional catalogues, financial aid applications, brochures, and other informational documents which include

the independent student criteria. According to the information provided by the commenters, many institutions have already begun to prepare these items for the 1978-79 academic year. Additionally, national need analysis services, State agencies, and other non-Federal student aid programs have begun to develop their forms and implement their procedures for 1978-79. Commenters representing these institutions and organizations indicated that a change in the definition for 1978-79 at this time would create serious administrative difficulties. Thus, they urged that the implementation of any changes be postponed until 1979-80, and that the final regulation be published with a liberal period of lead time in which forms, publications, and program procedures could be modified.

In responding to this widely expressed concern, we will postpone the implementation of any changes which are ultimately made in the independent student definition until the 1979-80 academic year. This delay will provide additional time to study public response in order to insure that the final regulation on the definition reflects the consensus of the financial aid community. Additionally, we shall publish the definition far enough in advance of the beginning of that academic year to permit the necessary changes to be made with as little inconvenience to institutions as possible.

To provide you with additional information concerning the independent student segment of the Basic Grant applicant population, I am submitting for the record several statistical tables. These are included as Figures 2, 4, and 5 in Appendix A.

These tables provide a summary of independent student characteristics for the 1976-77 Basic Grant applicant population. We should like to note that this program data does not permit a precise assessment of the impact on the student population of the proposed amendments to this definition. To the best of our knowledge, such data is currently not available. At the same time, however, some general observations on the impact of proposed definition may still be made.

Specifically, program data indicates that about 70 percent of all independent applicants are 23 years of age or older. Given this age level, it is reasonable to assume that this category of independent applicants are least likely to be affected by the proposed definition as the vast majority of these students can be expected to have been truly self-supporting for a considerable period of time.

On the other hand, some 30 percent of the independent applicants are 22 years of age or younger. During the 1976-77 academic year, about 370,000 of the independent applicants fell in this age category. Obviously, the proposed definition would more directly affect this category of applicants in the sense that a certain proportion of these applicants would be considered as dependent on parental resources under the proposed rule. At the same time, it is our view that the temptation to trade off a tax exemption for increased student aid is strongest for parents of students in this age category, since these younger students are more likely to be

receiving support from their parents. The proposed regulation, while admittedly not eliminating this problem, will certainly make it more difficult to establish independent student status through advance planning on the part of the student and his parents.

ASSET RESERVES FOR FARMERS AND BUSINESSMEN

In concluding my remarks today, there is one item I should like to mention briefly concerning the asset reserves in the Family Contribution Schedules as they may be affected by the pending appropriation bill.

As you know, the Family Contribution Schedule for dependent students includes a reserve of $12,500 against asset equity before any assessment of a family's assets is made. Since there is an additional $12,500 reserve against farm and business assets, the total asset reserve for the farmer or business owner can be as much as $25,000.

The HEW-Labor appropriation bill includes in the Basic Grant appropriation $90 million intended specifically by the appropriation committee to be used to raise the reserves against reported assets above their current levels. Fifty million of this amount has been designated to be used to raise the asset reserves for farmers and businessmen. It is my understanding that the intent of the committee was that the sum of the two asset reserves for farmers and businessmen be raised from its current level of $25,000 to $50,000. The remaining $40 million is designated for raising the asset reserve for non-farm and business assets from the current $12,500 to whatever level that sum would permit.

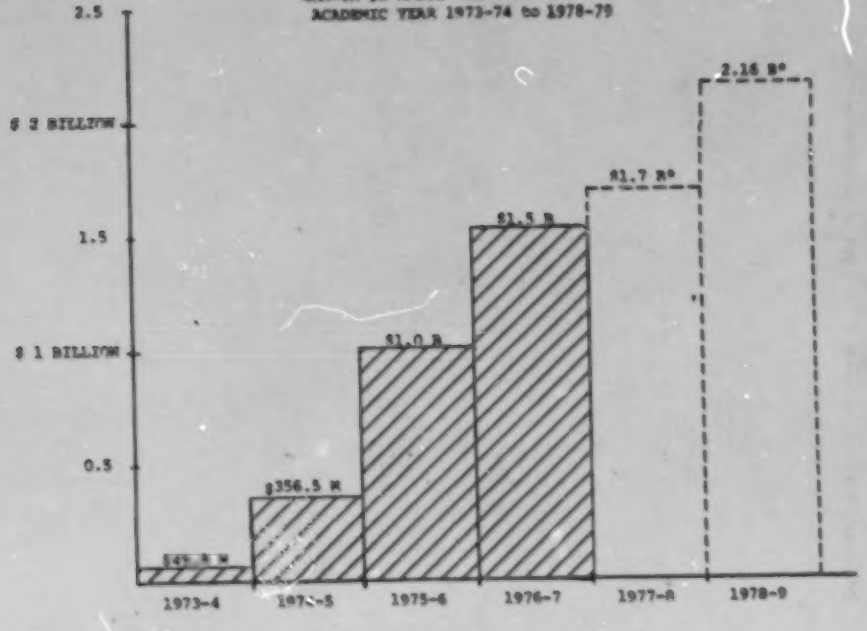
We originally estimated that the cost of raising the sum of the asset reserves for farmers and businessmen to $50,000 could reach $50 million. However, our later, more detailed analysis of our statistical data on these two categories of applicants indicates that the cost will be approximately $24 million. Given this expenditure, $66 million would remain which could be applied against the asset reserve for non-farm and business assets reported by applicants, instead of the $40 million originally designated by the appropriation committee. If the entire $66 million were to be used for this purpose, we estimate that the asset reserve could be raised from its current level of $12,500 to $17,000.

Our 1976-77 applicant data indicates that about 67 percent of all applicants reported an asset equity below $17,000, and approximately 66 percent of the farmers and 85 percent of the businessmen reported an asset equity below $50,000. Appendix A includes three charts concerning asset holdings of the Basic Grant applicant population which we would be happy to discuss with you.

As you know, we did not include a proposal to raise the level of the asset reserves among the proposed changes for the 1978-79 academic year. However, if the Committee agrees to the suggestion that we raise the sum of reserves for farmers and businessmen to $50,000 and use the remainder of the $90 million to raise the reserve for non-farm and business assets to $17,000, we shall include these changes in the 1978-79 Family Contribution Schedule when it is published as a final regulation.

At this time, I will be pleased to respond to any questions on our proposals for the 1978-79 Family Contribution Schedules.

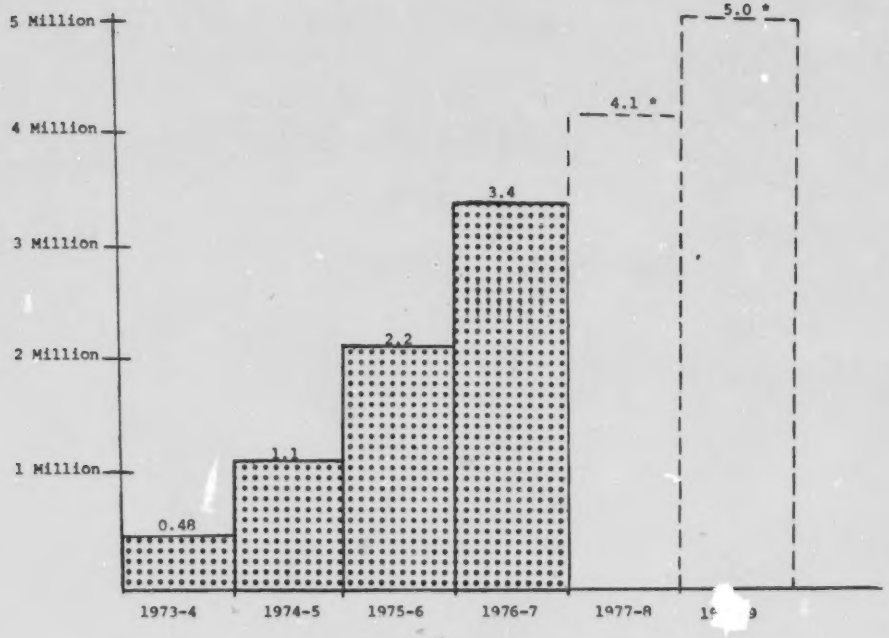
EXHIBIT I
GROWTH IN BASIC GRANT EXPENDITURES
ACADEMIC YEAR 1973-74 to 1978-79



* Estimated Expenditure

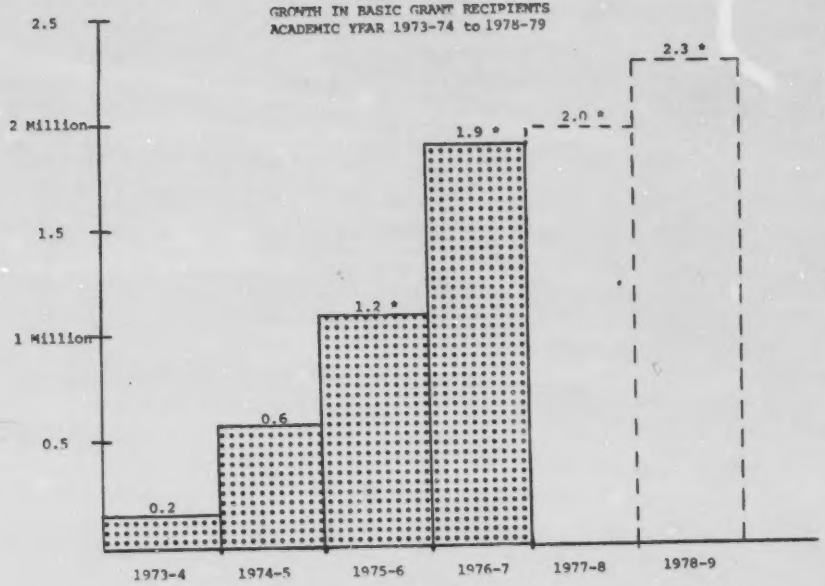
EXHIBIT II

GROWTH IN BASIC GRANT APPLICANTS
ACADEMIC YEAR 1973-74 to 1978-79



* Estimated Applicants

EXHIBIT III
GROWTH IN BASIC GRANT RECIPIENTS
ACADEMIC YEAR 1973-74 to 1978-79



* Estimated Recipients

Maximum Award	$452	$1050	$1400	$1400	$1400	$1600
Minimum Award	50	50	200	200	200	50
Average Award	269	621	763	790	848	914

APPENDIX A

List of Figures

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Figure 7	Percent of Applicants by Asset Level for Eligible and Ineligible Dependent Applicants, Business Owners Only (1976-77)
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FIGURE 1

SUMMARY STATISTICS-BASIC GRANT PROGRAM

	1973-74	1974-75	1975-76	1976-77
Number of Applications Processed	512,866	1,304,877	2,339,337	3,590,379
Number of Applications Returned (Insufficient data)	100,862	190,793	160,641	181,661
Number of Valid Applications	482,331	1,114,084	2,178,696	3,426,504
Number of Applicants Qualified	268,444	681,648	1,455,187	2,262,348
Number of Applicants not Qualified	213,887	432,436	723,509	1,164,156
Percentage of Valid Applicants Qualifying	55.7%	61.2%	66.8%	66.0%
Data Summary of Valid Applicants				
1. DEPENDENT STUDENTS				
Number of Valid Applications Dependent Students	423,229	896,366	1,594,454	2,187,004
Percentage of Valid Applicants from Dependent Students	87.7%	80.5%	73.2%	63.8%
Number of Dependent Applicants who Qualify	232,641	532,705	1,021,936	1,394,738
Percentage of Dependent Applicants who Qualify	55.0%	59.5%	64.1%	63.8%
2. INDEPENDENT STUDENTS				
Number of Valid Applications from Independent Students	59,102	217,718	584,242	1,234,500
Percentage of Valid Applications from Independent Students	12.3%	19.5%	26.8%	36.2%

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	1973-74	1974-75	1975-76	1976-77
Number of Independent Applicants who Qualfiy	35,803	148,943	433,251	867,610
Percentage of Independent who Qualfy	60.6%	68.4%	74.2%	70.0%
3. APPLICANTS WITH FARM ASSETS				
Number of Dependent Applicants with Farm Assets	25,360	32,368	86,811	104,305
Percentage of Dependent Applicants with Farm Assets	6.0%	5.8%	5.4%	4.8%
Number of Dependent Applicants with Farm Assets who Qualify	10,468	23,261	44,128	59,817
Percentage of Dependant Applicants with Farm Assets who Qualfy	41.3%	44.4%	50.8%	57.3%
4. APPLICANTS WITH BUSINESS ASSETS				
Number of Dependent Applicants with Business Assets	24,412	56,107	101,610	138,137
Percentage of Dependant Applicants with Business Assets	5.8%	6.3%	6.4%	6.3%
Number of Dependent Applicants with Business Assets who Qualify	10,763	27,286	53,269	78,906
Percentage of Dependent Applicants with Business Assets who Qualfy	44.1%	48.6%	52.4%	57.1%
5. VETFRANS EDUCATIONAL BENEFITS RECIPIENTS				
Number of Applicants Receiving Veterans Educational Benefits	26,645	59,736	136,338	246,900

	1973-74	1974-75	1975-76	1976-77
Percentage of Applicants Receiving Veterans Educational Benefits	5.5%	5.4%	6.3%	7.2%
Number of Applicants Receiving Veterans Educational Benefits who Qualify	5,020	23,258	79,554	140,587
Percentage of Applicants Receiving Veterans Educational Benefits	18.6%	38.9%	58.4%	56.9%

ELIGIBILITY INDEX TABLES BY FAMILY INCOME FOR ALL

INDEPENDENT APPLICANTS

(1976-77)

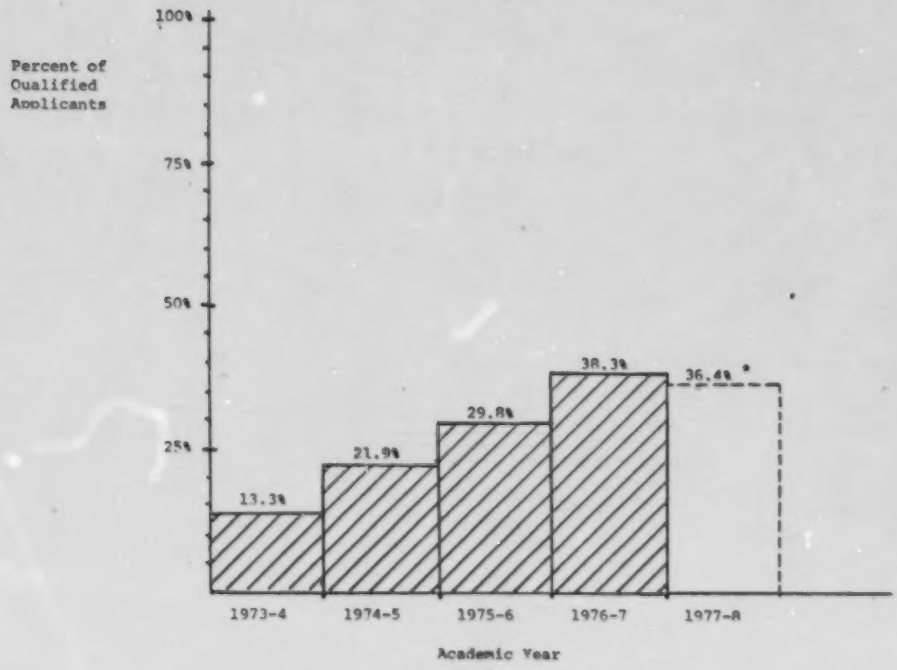
ELIGIBILITY INDEX	INCOME RANGE							
	$ 0-2,999	$3,000-4,499	$4,500-5,999	$6,000-8,999	$9,000-11,999	$12,000-14,999	$15,000 +	TOTAL
0-200	372,472	134,836	69,664	30,598	1,829	128	56	609,582
	61.2%	22.1%	11.4%	5.0%	0.3%	0.0%	0.0% *	100.0%
201-400	27,800	3,710	11,853	13,976	1,236	57	5	58,637
	47.5%	6.3%	20.2%	23.8%	2.1%	0.1%	0.0% *	100.0%
401-600	27,354	1,192	9,314	15,929	1,804	147	15	55,755
	49.1%	2.1%	16.7%	28.6%	3.2%	0.3%	0.0% *	100.0%
601-800	28,734	882	5,106	16,711	2,746	254	20	54,453
	52.8%	1.6%	9.4%	30.7%	5.0%	0.5%	0.0% *	100.0%
801-1000	23,814	824	2,913	15,015	3,805	378	42	46,791
	50.9%	1.8%	6.2%	32.1%	8.1%	0.8%	0.1%	100.0%
1001-1200	21,869	1,054	1,517	12,394	4,998	510	49	42,391
	51.6%	2.5%	3.6%	29.2%	11.8%	1.2%	0.1%	100.0%
TOTAL	502,043	142,498	100,367	104,623	16,418	1,474	187	867,610
	57.9%	16.4%	11.6%	12.1%	1.9%	0.1%	0.0% *	100.0%

*Less than 0.1%

ELIGIBILITY INDEX LEVEL BY FAMILY INCOME FOR ALL ELIGIBLE APPLICANTS
(1976-77)

ELIGIBILITY INDEX	INCOME RANGE							
	$0 2,999	$3,000 4,499	$4,500 5,999	$6,000 8,999	$9,000 11,999	$12,000 14,999	$15,000 +	TOTAL QUALIFIED APPLICANTS
0-200	588,229	297,982	221,034	222,561	55,842	7,858	1,333	1,394,859
	42.2%	21.4%	15.8%	15.9%	4.0%	0.6%	0.1%	100%
201-400	31,396	7,471	24,431	70,058	47,273	15,060	2,473	198,162
	15.8%	3.8%	12.3%	35.4%	23.9%	7.6%	1.2%	100%
401-600	28,521	2,810	13,900	55,772	53,976	26,267	7,029	188,162
	15.1%	1.5%	7.4%	29.6%	28.7%	14.0%	3.7%	100%
601-800	29,462	1,991	7,979	39,763	51,854	34,788	13,686	179,523
	16.4%	1.1%	4.4%	22.2%	28.9%	19.4%	7.6%	100%
801-1000	24,305	1,574	4,960	28,446	43,520	38,698	21,175	162,678
	14.9%	1.0%	3.1%	17.5%	26.7%	23.8%	13.0%	100%
1001-1200	22,098	1,543	2,907	20,811	29,893	34,579	27,018	138,851
	15.9%	1.1%	2.1%	15.0%	21.5%	24.9%	19.5%	100%
TOTAL	724,011	313,371	275,211	437,411	282,360	157,250	72,734	2,262,348
	32.0%	13.8%	12.2%	19.3%	12.5%	7.0%	3.2%	100%

FIGURE 4
PERCENT OF QUALIFIED APPLICANTS FILING
AS INDEPENDENTS BY ACADEMIC YEAR



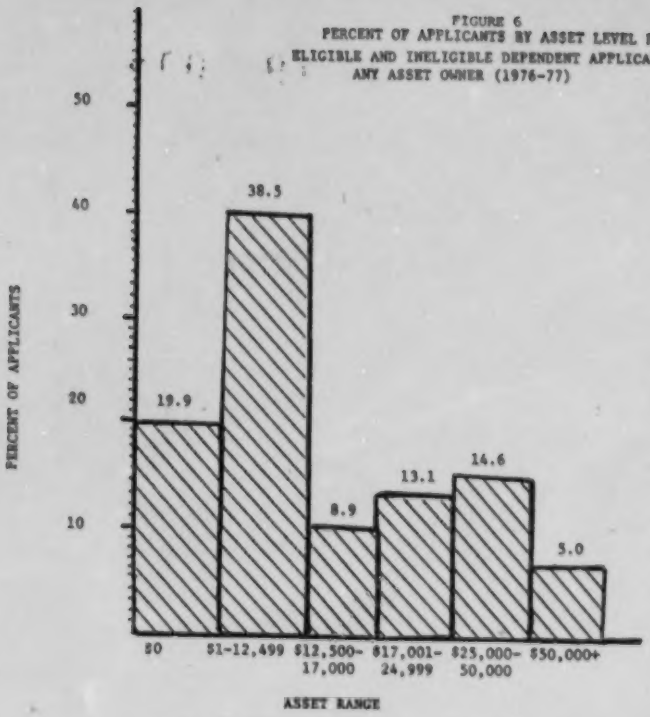
* BEOG National Summary Statistics as of 8/16/77

FIGURE 5
TOTAL INDEPENDENT APPLICANTS FAMILY SIZE
BY AGE
(1976-77)

FAMILY SIZE	APPLICANT'S AGE			TOTALS
	22 or Less	23 - 27	28 and Over	
Single Independent Applicants	211,195	174,634	84,266	470,095
Percentage	44.9%	37.2%	17.9%	100.0%
All Other Independent Applicants	157,999	268,590	341,210	767,799
Percentage	20.6%	35.0%	44.4%	100.0%
Total Independent Applicants	369,194	443,224	425,476	1,237,894
Percentage	30.0%	35.8%	34.3%	100.0%

95-529 O - 78 - 5

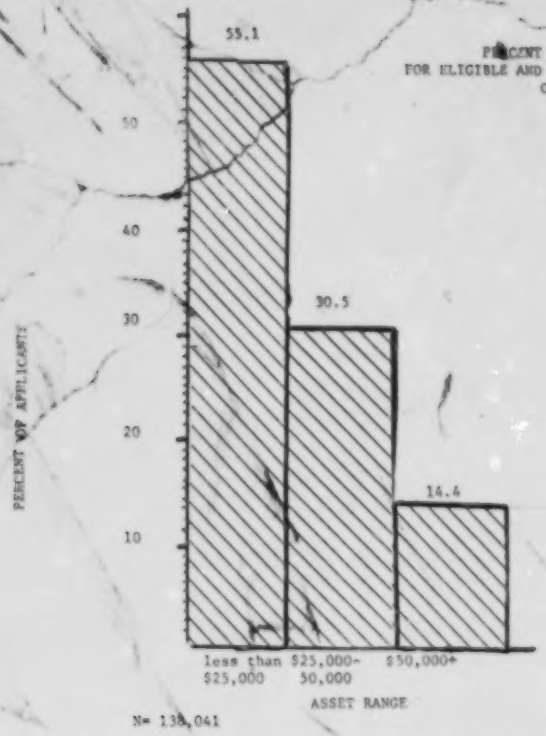
FIGURE 6
PERCENT OF APPLICANTS BY ASSET LEVEL FOR ELIGIBLE AND INELIGIBLE DEPENDENT APPLICANTS ANY ASSET OWNER (1976-77)



N= 2,187,004

FIGURE 7

PERCENT OF APPLICANTS BY ASSET LEVEL
FOR ELIGIBLE AND INELIGIBLE DEPENDENT APPLICANTS BUSINESS
OWNERS ONLY (1976-77)

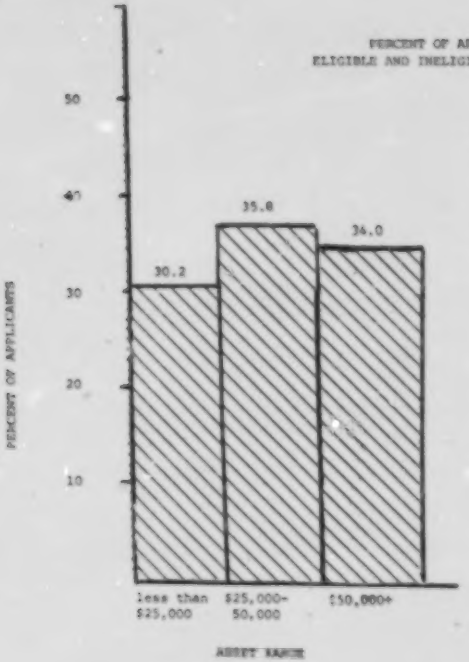


N= 138,041

Note: Data by Asset Range is interpolated from BEOG Program Data

FIGURE 8

PERCENT OF APPLICANTS BY ASSET LEVEL FOR
ELIGIBLE AND INELIGIBLE DEPENDENT APPLICANTS FARM OWNERS ONLY
(1976-77)



N= 104,004

Note: Data by Asset Range is interpolated from BEOI Program Data

APPENDIX B

BASIC GRANT
APPLICATION DATA ELEMENTS

Data Element	Description (as necessary)
Social Security Number	
Name	
Date of Birth	
Citizenship	
State of Legal Residence	Item is used in coordination of aid with State scholarship programs.
Address	
Postsecondary Institution	Student may list two schools to which Basic Grants will send results of processing the application.
Educational Level	Student's level of postsecondary education for the 1978-79 academic year; first through fifth years of undergraduate study.
Applicant's Status	Three questions used to determine if student is independent of parents; see further discussion below.

NOTE: The following items will be collected for the parent or the applicant, depending on whether the applicant is dependent or independent.

Marital Status	Item used in determining eligibility for Employment Expense Offset.
Household Size	Item used in determining amount of Family Size Offset.
Members in Postsecondary Education	Item collects number of members of household that will be enrolled in a postsecondary institution on at least a half-time basis during 1978-79.

Nontaxable Income	Item includes social security benefits, child support, welfare, unemployment compensation, untaxed earned income, etc.
Tax Exemptions	
Adjusted Gross Income	1977 income reported on 1040 or 1040A
Employment Income	Item collects portion of Adjusted Gross Income earned through employment by father and mother (applicant and spouse).
Income Tax Paid	
Itemized Deductions	
Medical/Dental Expenses	Item collects amount of 1977 medical and dental expenses not covered by insurance.
Elementary/Secondary Tuition	Item collects amount of unreimbursed elementary and secondary tuition and fees paid for other members of the household.
House Value and Debts	All asset items reflect current market value. Debts are against reported assets.
Investments/Other Real Estate and Debts	
Cash, Savings, and Checking Accounts	
Business Value and Debts	
Farm Value and Debts	
Applicant's Savings and Other Resources	Item collects net amount of dependent applicant's savings and other assets.
Veteran's Educational Benefits	Item collects amount of benefits to be received during the 1978-79 academic year by the applicant (dependent and independent) through G.I. Bill and War Orphans' and Widows' Education Assistance Program.

Social Security Benefits	Item collects amount of benefits to be received during the 1978-79 academic year by the applicant (dependent and independent) because he or she is a student.

STATEMENT OF LEO KORNFELD, DEPUTY COMMISSIONER OF EDUCATION FOR STUDENT FINANCIAL ASSISTANCE, OFFICE OF EDUCATION

Mr. KORNFELD. Thank you, Mr. Chairman. Let me if I may briefly summarize the written testimony which we submitted to the committee and before I get into the major points covered in the testimony, just as backdrop I would briefly describe the BEOG program as indicating its growth as of 1977–78. I think it is interesting to see the tremendous growth and impact this program has in fact had throughout the country. First as you may know in 1973–74 which was the first year of the program the dollar expenditures for the program was $50 million. In 1977–78 we are talking about $1.7 billion program. In 1973–74, we had 480,000 applicants. In 1977–78 we talk about 4.1 million applicants. In 1973–74 we had about 185,000 recipients. In 1977–78 we talk about 2 million recipients. In 1973–74 the average award was $269 with maximum being $452. 1977–78 we talk about a program where the average award was $848 and maximum was $1,400. Another interesting aspect of the program is that in 1977–78, 46 percent of all the eligible applicants came from families where the gross income was under $4,500; 78 percent of all eligible applicants came from families where the gross income was under $9,000.

Although this is not a conclusive statistic it certainly clearly indicates that the program had to have a major impact on permitting people from families of that low income, giving them an opportunity to attend schools which certainly indicates that the program has made a major contribution in the educational scene.

Four major subjects are included in our written testimony. The first is multiple data entry. As you know in the past there were various agencies that assisted institutions by providing need analysis for students enrolled in these institutions. In the past what occurred is that, in addition to students filling out the form for the particular institution that might be using a particular major need analysis service, they also had to fill out a specific basic grant form for the Office of Education.

As a result of a cooperative effort between the financial aid community and the Office of Education, next year, for example, we will be in a position by having a "common" calendar and approximately 2.5 million students will not have to file a separate basic grant form. The way the system will work in the future is we will be extracting from the forms that the service agencies use, the data we need for determining basic grant purposes and thereby eliminating the necessity for the student filling out another form for the U.S. Government.

Our objective here is clearly some day—and perhaps it is just a wish at this point—but some day we would like to get in a position where there is a single form for determining need, used throughout the country and a single report that the institution has to provide. This is the first step in that direction.

The reason this gets mentioned at this particular hearing is that in order to work with the service agencies it is very important that we resolve as soon as possible the common data elements and we would appreciate the expeditious decision on the part of your committee.

The second item that we include in our written testimony deals with the five changes we are proposing for the 1978–79 family contribution schedule. The first change we are suggesting for your consideration is an increase in the family size offset to take into account inflation. This is something that we have done each year and the increase is based on the CPI which we are estimating this year will be approximately 6 percent.

Two of the proposed changes that we are talking about are part of the effort to develop common data elements for the basic grant application and the applications of the major need analysis services. The first is a revision of the criteria for determining which parent's income should be considered in computing basic grant eligibility when the applicant's parents are separated or divorced.

The proposed revision, which would provide consistency with the procedures of the major need analysis services, would require income information from the parent who has custody of the student, or, in cases in which the term "custody" is no longer applicable, from the parent with whom the applicant resided for the greater portion of the 12-month period preceding the date of the application. If the applicant did not reside with either parent during that period, the income of the parent who is providing the greater portion of the student's support shall be considered. The latter is the way we have been doing it in the past and we are suggesting this particular change which would make us consistent with the way this particular element is defined by the various services.

The second revision related to the effort to develop common data elements is a revision of the criteria for determining the circumstances in which a stepparent's income and resources shall be considered in basic grant eligibility computations. Under the procedures set forth in the 1977–78 family contribution schedule, the stepparent's financial information is reported only when the applicant has resided with the stepparent and parent for 6 weeks or more during the base year of the calendar year following the base year, or if the stepparent has contributed more than $600 to the applicant's support during either of those years.

As you know, basic grant eligibility computations are generally based on actual financial information for the calendar year prior to the academic year for which the student is requesting aid. The conditions under which a student may apply for a grant based on estimated data for the current year have deliberately been kept to a minimum.

The fourth modification we are proposing is to add the loss of unemployment benefits to the list of reasons for using estimated income when applying for a basic grant.

Finally, we are proposing for your consideration a technical amendment to permit an applicant to revise previously reported asset amounts if the applicant or the applicant's family has suffered a loss of assets resulting from a national disaster in an area which has been declared a national disaster area by the President.

The third major subject that we have included in our testimony is that of the reserves to be applied to the assets of farmers and businessmen and the reserves against family assets. In keeping with Congressman Obey's statement and in view of the fact that the Appropriation Committee has increased the basic grant appropriation for fiscal year

1978 by $90 million, we are suggesting that if the Congress does not disapprove it, we would include as a change in the family contribution schedule increasing the farm and business asset reserve from $25,000 to $50,000 and increasing the family asset reserve from $12,000 to $17,000. It is our estimate that these two changes would cost about $90 million.

It is interesting to note what impact these changes in fact would have. If these two changes were made 36 percent of our applicants reporting farm assets or about 36,000 persons will become eligible for basic grants and another 34 percent would have a reduced family contribution. In addition, 30 percent of the applicants reporting small business assets or 41,000 persons would become eligible for basic grants and an additional 14 percent of these applicants would have a reduced family contribution.

By going to a $17,000 reserve against family assets, an additional 9 percent, or 157,500 of our applicants would be eligible for basic grants and 33 percent of our applicants would have a reduction of their expected family contribution.

The last item we wish to discuss with you concerns the independent student. As you know so well, the problem with the independent student is a complex one. On one hand, what we are trying to do is to reduce and hopefully eliminate the real possibility of shifting the responsibility for postsecondary expenses from the families which can afford to contribute to their children's educational costs to the Federal Government. On the other hand, there is a legitimate concern about the truly independent student since they are becoming a major factor in the educational process. We have struggled with this dilemma and had many discussions with representatives of the educational community on it. We have published some proposed changes, which are basically to extend the time frame to 2 years instead of 1 year with respect to being declared on the parents' income tax, and changing the 2 weeks residence requirement to 6 weeks.

After receiving comments on the notice of proposed rulemaking, and after thinking more about it, we are now suggesting that we postpone putting the new rule into effect for 1978–79, and that we consider this new rule for 1979–80. During that time we will study the entire problem of the independent student in terms of definition as well as treatment. What we would like to do in this case is come back some time in March or April rather than wait until the entire family contribution schedule is being reviewed next summer, with a suggestion as to how we might treat the entire independent student question. We want to look at the entire problem since we think it is time to give that subject a very thorough review.

As you know the basic grant program was started with the idea it was primarily for the younger person going from high school to college. Our situation has now changed and we feel that this kind of study is warranted and we would like the opportunity of coming back to you early next year to talk about this in a more thorough way than we can now. If you would agree we would do nothing about changing the rule as far as independent student definition and let it run until we can have that kind of conversation.

It is sort of interesting to talk about the independent student. Of the 2.2 million qualified applicants in the year 1976–77, about 38

percent or 868,000 of those applicants were independent. The other interesting aspect of that number of 868,000 is that about 70 percent of those students who do apply as independent students are over 23 years of age which clearly indicates that we are dealing with a new population of students. That is another reason why we feel the subject needs further review and we do plan to do this.

If there are any questions we would be very happy to answer them.

Mr. FORD. You are suggesting that at this point there be no change in the definition of the independent student and the 2-year rule would not go into effect for the 1978–79 academic year?

Mr. KORNFELD. Yes, sir.

Mr. FORD. I think that is probably a good idea because that change can start a lot of arguing and I don't know whether it is worthwhile to have a lot of reaction in the community over that part of it when the whole phenomenon of the independent student really has not been considered here or perhaps any place in light of the real world of 1977.

Mr. KORNFELD. That is my feeling, Mr. Chairman. It is just playing around with the definition, just causing a lot of fuss and fury and when you look at what we are accomplishing it looks rather insignificant in comparison to the fuss.

Mr. FORD. I think we were talking last week about the family or student moving away from the college campus. The pattern seems to have changed; the relationship of a college-age person to the parent is quite different than it was just a very few years ago.

I imagine a good deal of the package of assumption that you work under might not pass muster.

I appreciate your undertaking this study until such time as we can deal more easily with the question. When we see laws that don't square with the purpose of the law or that seem to disqualify the person who is thought to be the recipient, the beneficiary, we are doing something wrong.

We have had ample warning now that there is substantial injustice, as well as an invitation for mischief, when young people take advantage of programs that encourage them from making the kind of expenditure with their own resources that they are capable of making.

Mr. Brademas has a question. He cannot be with us this afternoon. It is:

In examining the statistical relation provided in the appendices to your prepared statement, the most relevant data would be on the recipient, that is, people who actually got the basic grants rather than applicants for a basic grant. Do you think you could replicate the data which you have here, extracted from actual experience?

I think it would be very interesting to have that.

Mr. VOIGT. May I respond to that, Mr. Chairman? We are working now on pulling the data together through this year on the recipients. We could not, however, for the current application cycle provide you with recipient information because those applications are still coming in. The application file is, first, not yet completed and second, we really haven't received the reports back from the institutions about these students.

So that kind of data will not be available until a good bit later, actually next year. For previous years we are working now to pull that data together. We will make it available as soon as it is ready.

Mr. FORD. Mr. Thompson also wanted to ask a question about the Education Amendments of 1976. Mr. Thompson would like for you to give him and the committee an update on the implementation of the Thompson-Eshleman amendment. What has happened, are you having problems, how widespread is the participation?

Mr. VOIGT. Mr. Chairman, strictly speaking, the implementation of the Thompson-Eshleman amendment was slightly changed by our approach to going with this multiple data entry procedure on basic grants.

In the 1978 and 1979 processing year, we will be dealing not only with State agencies but the two major need analysis services on that approach. At the moment we are working to put that system together. I think progress so far has been very good. We expect two States to participate in that procedure for the 1978–79 academic year.

I think at a later date for the record we can provide you with a more detailed progress report. But at the moment we are working on contracts to implement this approach. The application forms themselves have been agreed to and put together. I think we are at the stage where some of the services have actually gone to press with their application forms, which means that we are not in a position to recommend or make changes that would affect the application forms. Thus far progress has been very good.

Mr. FORD. At what point will you be able to ask your computer for a profile of the recipients by program and then break it out by institution so that we can get some idea? I know we have tried to get bits and pieces of this and it has been difficult for the committee up until now. I have not been impressed with the Office of Education's limited ability to be able to look at the whole package of student assistance programs.

There are differences in perspective between big city campuses and a private school that always color what we are told about who should benefit and how these programs work.

There is a difference in attitude and perspective between the people who administer the programs that reflects the kind of administration and population of students they serve.

We get an uneasy feeling when we don't even know in my own State of Michigan what kind of student population is being impacted most directly and which kind of student loan is being used where.

Mr. KORNFELD. We do feel it is important that we somehow get ourselves in the position where we can look at all the programs in a coordinated way to determine what institutions are getting involved in which programs and also be able to do this by States so we get a better feel.

The problem is that the systems we have currently do not permit us to do this, No. 1. We are looking at that. Although we can't give you a date, we too feel it is something that is very important, that we be able to identify student financial assistance by State and by institutions to determine what changes we should make in these programs.

Mr. FORD. It is something the Office of Education should have been doing in anticipation of being advocates of programs, not only as Congress sets them up but how a program ought to be enacted by Congress. The advocacy role has been lost. But to be advocates you have

to be the best informed people in this town and this country about what is actually happening.

Mr. KORNFELD. We hope to assume that role when we get data that show where this money is in fact being expended, and we are working on this now.

Mr. FORD. Mr. Quie will have some questions which we will send down with Mr. Biaggi's questions so we don't have to detain you further. Some of them have been touched on already.

Mr. CORNELL. I want to be sure I have one figure correct. You mentioned the increase in the farm reserve assets from $25,000 to $50,000 and that this would have the effect of increasing those eligible by 36 percent?

Mr. KORNFELD. Thirty-six percent of those persons who submit applications report farm assets. Of those applicants 36 percent more will become eligible or 36,000 additional students.

The other thing I think is significant that 34 percent will have a reduced family contribution. More than 50,000 people will benefit.

Mr. CORNELL. Of those who submit applications?

Mr. KORNFELD. Right.

Mr. CORNELL. I was wondering what the rationale was in the proposed amendment providing for extension of residence limitation, that is, from 2 weeks consecutive to 6 weeks. What is the reason for that?

Mr. VOIGT. The 2-week rule was a rule that was with the basic grant program right from its inception. Many of us felt it was essentially an unenforceable rule and probably considerably more strict than logically it should be, in terms of determining a student's independence.

So we took this opportunity while changing the tax exemption to also change the residence requirement.

Mr. CORNELL. What is the rationale for the 6 weeks?

Mr. VOIGT. Essentially the 6 weeks was arrived at through discussions with the financial aid community to see what kind of a reaction we got. We were open to changing it to 8 weeks.

Mr. FORD. Six consecutive weeks?

Mr. VOIGT. Six consecutive weeks.

Mr. KORNFELD. You just go away for a long weekend.

Mr. CORNELL. I had an experience where some students came from rather wealthy families and declared themselves after their freshman or sophomore years to be independent and they were eligible for programs on campus that they would not have gotten otherwise.

I think it would take the wisdom of Solomon to work out a definition that would be equitable and fair.

Did I get that correct? Did you say of the 2.2 million qualified, 38 percent were independent students?

Mr. KORNFELD. Yes.

Mr. CORNELL. And that percentage for age 23, that does surprise me.

Mr. KORNFELD. Which is why we think the whole subject needs restudying. We do want to prevent those students who are not truly independent from qualifying as independent students. In the past what was done was simply have your family not include you on their income tax return. That is about the only thing that can be validated. There are so many of those independent students over 23 years of age. The problem is with the 30 percent, not the 70 percent.

Mr. CORNELL. Thank you.

Mr. FORD. Thank you very much. Once again I would like to thank you for appearing this afternoon.

We have now Mr. Dallas Martin, executive secretary of the National Association of Student Financial Aid Administrators.

[The prepared statement of Mr. Martin follows:]

STATEMENT

before the

SUBCOMMITTEE ON POSTSECONDARY EDUCATION

U. S. HOUSE OF REPRESENTATIVES

September 12, 1977

by

Dallas Martin, Executive Secretary
National Association of Student Financial Aid Administrators

on behalf of:

The American Association of Community and Junior Colleges
The American Association of State Colleges and Universities
The American Council on Education
The Association of American Universities
The Association of Jesuit Colleges and Universities
The National Association of Independent Colleges and Universities
The National Association of State Universities and Land-Grant Colleges
The National Association of Student Financial Aid Administrators
The National Catholic Educational Association, College and University Department

Mr. Chairman and Members of the Subcommittee:

Good morning. I am Dallas Martin, Executive Secretary of the National Association of Student Financial Aid Administrators, and I am accompanied by Patricia Smith, Policy Associate with the American Council on Education. We are pleased to appear before you today on behalf of the major higher education associations regarding the Office of Education's Notice of Proposed Rulemaking governing the Basic Grant Family Contribution Schedules and the proposed change in the definition of the independent student.

The higher education community supports the changes proposed by the Office of Education in its Notice of Proposed Rulemaking governing the Family Contribution Schedule for 1978-79. The Commissioner's intent to revise the criteria used in determining which parent's income is to be used in calculating Basic Grant eligibility for a student whose parents are divorced or separated, the inclusion of the loss of unemployment benefits as a permissible condition for filing a Supplemental Form, and the revision which enables applicants to correct their previously reported assets when such have been lost or damaged as a result of natural disaster, will surely improve the equity of the program.

There are, however, some changes which need to be included in the Notice of Proposed Rulemaking, but were not known at the time those rules were developed. These needed changes are the result of action taken by the Conferees on the 1978 Labor, Health, Education and Welfare appropriations bills. Amendment #57 earmarked $2.16 billion for the Basic Grant program to fund a maximum grant level of $1600 and, in addition, provides at least $40 million for the expansion of eligibility under the program. Further, the conference report

indicated that the intention of the conferees was that up to $50 million be used to increase the offset for farm and small business assets, and that up to $40 million be used for increasing the offset for personal use.

The higher education community commends the appropriations conferees for taking the initiative to expand eligibility criteria and to support needed changes in asset offsets which would make the distribution of Basic Grant funds more equitable for all students. Heretofore, students whose parents are business or farm owners have participated in the program at a lower rate than other students whose families are in similar economic situations. The reason for this difference has been the limitations which have been inherent in the asset reserve offsets used in calculating Basic Grants eligibility. However, by changing the asset protection allowance to a level more in keeping with average asset holdings of these various groups greater equity can be achieved.

Based on our analysis, we would recommend that for 1978-79 the personal asset reserve be changed from the current $12,500 to $17,500, and that the farm and business asset reserve be increased from the current $25,000 to $50,000. These two changes, coupled with the $1600 maximum award, will generate program costs of approximately $2.16 billion for 1978-79. In addition, approximately 2,356,000 recipients will be eligible to participate in the program, as opposed to 1,978,700 for 1977-78. We would also encourage further expansion of the personal asset reserve in the future.

These changes, in our opinion, are in keeping with the intent of Congress. But more important, they will help to relieve some of the increased burden of middle income Americans who have experienced most severely the influence of rapid inflation on their personal and other assets.

We would, therefore, hope that this Subcommittee would adopt the Family Contribution Schedules as proposed by the Office of Education and instruct the

Office of Education to include these changes to the asset reserve levels when the final rules are published.

In addition, we would like to take this opportunity to point out another major inequity within the Basic Grant program as it relates to the treatment of single, self-supporting students with dependent children. Under the current formula there is no personal asset reserve for self-supporting students. Instead, their assets are taxed at the rate of 33% per year. While this treatment is generally accepted for the typical self-supporting student who has no dependents, the current procedure certainly imposes an unrealistic expectation upon the single, self-supporting student who has dependents.

For example, a divorced mother with two children, whose net assets of $10,000 are in the form of home equity, would be expected to contribute $3,333 from these assets for educational purposes. The assumption behind this treatment is that, since the student is the direct beneficiary of the post-secondary education, he or she should be expected to invest a portion of his or her resources in meeting educational costs. Since the assets are re-calculated each year, a modest reserve is provided for the individual student. However, in the case of the single, self-supporting student with children, the parent's obligations are different in that they also must provide for the financial needs of their offspring.

As a result of this unrealistic expectation, many widowed, divorced or separated self-supporting students with children are denied assistance through the Basic Grant program. Consequently, these students are forced to seek help from other aid sources and typically must borrow larger amounts of money and/or work more hours in an effort to meet their postsecondary educational expenses.

We would, therefore, strongly recommend that this Subcommittee instruct the Office of Education to conduct a complete analysis of this problem and

provide the Subcommittee with data to indicate what the costs to the program would be to provide personal asset reserves for these students along with estimates of the number of students who would likely be affected. We realize that these changes would have to be carefully reviewed and that budget allocations would have to be set aside to correct this problem.

In addition, it may also be necessary to change the current data elements on the Basic Grant application to collect this kind of information. In light of current budgetary restrictions and the lack of adequate lead time to implement this change for the 1978-79 academic year without disrupting the new multiple data entry system which is currently being put into place, we would suggest that this proposal be given serious consideration for the 1979-80 academic year, and that the Subcommittee hold public hearings regarding potential revisions.

Given the overall complexity and the growing concern about the self-supporting student, it would appear logical for this matter and other proposed changes to the current criteria for defining independent students to be consolidated into a single, comprehensive review with modifications to be implemented in 1979-80.

We would hope that in consideration of these matters, the Office of Education could be encouraged to develop more accurate base line data for the estimation model used in the Basic Grant program. To date there has been only limited analysis done with the Basic Grant recipient files in spite of the fact that the program is entering its fifth year of operation. If accurate projections of program costs and outcome benefits are to be known, and if proposed revisions are to be predictable, then greater emphasis needs to be placed upon developing a comprehensive data base that can be easily accessed to perform accurate policy analysis.

We thank you for the opportunity to appear before you today and will be pleased to respond to any questions you may have at this time.

STATEMENT OF DALLAS MARTIN, EXECUTIVE SECRETARY, NATIONAL ASSOCIATION OF STUDENT FINANCIAL AID ADMINISTRATORS

Mr. MARTIN. Mr. Chairman, members of the subcommittee, I am Dallas Martin, executive secretary of the National Association of Student Financial Aid Administrators.

I was to have been accompanied by Miss Patricia Smith from the American Council on Education but due to the hour she had a previous commitment so she is not with me.

We would like to comment on behalf of the major higher education associations regarding the Office of Education's Notice of Proposed Rulemaking on the basic and family contribution schedule and also on the definition of independent students.

I would like to paraphrase our testimony in the interest of time.

Mr. FORD. Without objection your prepared statement, which indicates the viewpoint of the American Association of Community and Junior Colleges, the American Association of State Colleges and Universities, the American Council on Education, the Association of American Universities, the Association of Jesuit Colleges and Universities, the National Association of Independent Colleges and Universities, the National Association of State Universities and Land-Grant Colleges and the National Association of Student Financial Aid Administrators, will be entered in the record to facilitate our consideration.

Mr. MARTIN. Thank you, Mr. Chairman. We are generally in agreement with the recommendations that have been made by the Office of Education regarding the family contribution schedules for 1978–79 and we think the changes that have been proposed here will go a long way in improving the overall equity of the program.

There were, however, a couple of changes that needed to be included in the original notice that were not there. From the testimony presented this afternoon by the representatives of the Office of Education we see that they are also aware of the change that was proposed by the Appropriations Committee.

Specifically we are talking about amendment No. 57 which earmarked $2.16 million for the basic grant program, with the maximum grant level set at $1,600, and in addition, $90 million for expanding eligibility under the program.

We would like to comment on that particular phase of OE's analysis because we have also studied this and I am pleased to say we are very close in our recommendations to those of the Office of Education.

We would recommend that the asset reserves for the personal asset reserves be changed for the coming year from the current $12,500 to $17,500. Like the Office of Education, we would recommend that the business and farm asset reserves be increased from the current $25,000 to $50,000.

Our estimate shows that these two changes coupled with the $1,600 maximum award would generate program costs of approximately $2.16 billion, which is exactly what the appropriation is scheduled to be. In addition, approximately 2,356,000 recipients will be eligible to participate in the program, as opposed to 1,978,000 for 1977–78.

We think that these particular changes are in keeping with the intent of Congress. They would also help in relieving some of the increased burden of middle-income Americans who have experienced most severely the influence of rapid inflation on their personal and other assets.

We would therefore hope that this subcommittee would adopt the family contributions schedules as proposed by the Office of Education and instruct the Office of Education to include these changes to the asset reserve levels when the final rules are published.

In addition we would like to take this opportunity to point out another major inequity within the basic grant program as it relates to the treatment of single, self-supporting student with dependent children. Under the current formula there is no personal asset reserve for self-supporting students. Instead their assets are taxed at the rate of 33 percent per year. While this treatment is generally accepted for the typical self-supporting student who has no dependents, the current procedure certainly imposes an unrealistic expectation upon the single, self-supporting student who has dependents.

For example, a divorced mother with two children, whose net assets of $10,000 are in the form of home equity, would be expected to contribute $3,333 from these assets for educational purposes. The assumption behind this treatment is that, since the student is the direct beneficiary of the postsecondary education, he or she should be expected to invest a portion of his or her resources in meeting educational costs. However, in the case of the single, self-supporting student with children, the parent's obligations are different in that they also must provide for the financial needs of their offspring.

We would therefore hope that these unrealistic expectations could be studied and that we could look at this total program in reviewing the independent student.

We realize there might be budget restrictions that might limit this change and also that it might be necessary to collect additional data on these students. Therefore, we would suggest, like the Office of Education, that these changes not be initiated this year but that during this year we carefully review the entire independent student definition and the impact that it has upon all of the programs. Further, that serious consideration be given to coming up with a comprehensive proposal for the 1979 year.

Mr. Kornfeld has testified that they would like to do this and have this recommendation in place by March. I would say that while I appreciate their interest in doing so, it would be better to move it up to January in order to give institutions and State legislatures the necessary time to adjust to the new modification before the end of next spring.

One other thing we would like the Office of Education to do, and I think the chairman just referred to it, is to try to develop more accurate data. We, like you, Mr. Chairman, have been frustrated by the fact that it is very difficult to come up with comprehensive data on all these programs and to know exactly who they serve and who benefits from them.

In regard to the definition, Mr. Chairman, of the independent student, we have also previously testified before the Office of Education on August 8. In testimony there we recommended that the definition

for independent student be delayed until this coming year and presented data on this problem that has been mentioned by representatives of the Office of Education here today.

While that particular testimony was not attached to our original testimony today, with your permission I would be happy to provide a copy of it for the record so that you and the other members may have it for your information.

Mr. FORD. Without objection, it will be included in the record.

[The document referred to follows:]

RESPONSE TO NOTICE OF PROPOSED RULEMAKING
JULY 12, 1977

ON THE

DEFINITION OF THE INDEPENDENT STUDENT

PRESENTED TO THE

U.S. OFFICE OF EDUCATION

August 8, 1977

by

Dallas Martin, Executive Secretary
National Association of Student Financial Aid Administrators

on behalf of:

The American Association of Community and Junior Colleges
The American Association of State Colleges and Universities
The American Council on Education
The Association of American Universities
The Association of Jesuit Colleges and Universities
The National Association of Independent Colleges and Universities
The National Association of State Universities and Land-Grant Colleges
The National Association of Student Financial Aid Administrators

Good morning. I am Dallas Martin, Executive Secretary of the National Association of Student Financial Aid Administrators, and am here today to present the views of our Association and the American Association of Community and Junior Colleges, the American Association of State Colleges and Universities, the American Council on Education, the Association of American Universities, the Association of Jesuit Colleges and Universities, the National Association of Independent Colleges and Universities, and the National Association of State Universities and Land-Grant Colleges, on the Notice of Proposed Rulemaking which was published in the July 12 issue of the Federal Register.

Like the Office of Education, the higher education community has become increasingly concerned that the definition of the independent student is less than satisfactory in that it is arbitrary, difficult to verify and exceedingly unfair to some students. As indicated in OE's Notice of Proposed Rulemaking, the basic premise of need-based financial aid is that the primary responsibility for financing a student's education rests with the student and his or her family. However, it is well known that there are individual students who are financially independent of their parents and, as such, cannot expect their parents to contribute to the costs of their education.

While there is general agreement among practicing financial aid administrators that such students exist, there is no clear consensus as to how to distinguish between a truly independent student and one who realistically has parental resources available. Consequently, in the past several years numerous conferences, seminars and position papers have addressed this concern. Unfortunately, however, there has been little progress and minimal agreement in arriving at a more equitable definition of an independent student.

Again, in an attempt to address this problem, the Office of Education held an invitational seminar in January of 1977. Certainly these efforts are to be commended and we welcome this continued kind of effort to involve all parties in

establishing national educational policy. Some progress was made through this meeting toward improving the current definition.

The Notice of Proposed Rulemaking contained in the July 12, 1977 issue of the Federal Register reflects the general consensus of these discussions. In our opinion, however, there are still several questions and issues that need further study and clarification:

I. What Is the Number of Truly Independent Students Participating in Federal Student Aid Programs?

The Office of Education has indicated that between 30% and 40% of all eligible applicants under the Basic Grant program are expected to file as independent students during the current and subsequent academic years. Further analysis of the data, however, is needed to understand the true scope of the problem.

An analysis of the 1976-77 BEOG applicant data, as of January 29, 1977, indicates that approximately 3,238,336 million students had applied for Basic Grants. Of this number, 34.9% filed as independent students. 38.4% of these were single and 61.6% were either married, separated, divorced or widowed. Of the total 1,130,731 who filed as independent students, only 348,404, or 30.8% were 22 years of age or younger. Of this number, 200,716 were single, which represents 17% of the total independent student population and only 6.19% of the total applicant pool.

As anticipated, cumulative program data under the Basic Grant program has shown an increase in the number of independent students for Basic Grants since the inception of the program. But it is important to remember that for the first year the program was limited to full-time students who began their postsecondary education after July 1, 1973. During the second year of program operation, eligibility was restricted to full-time students who began their postsecondary education after April 1, 1973. Then, effective July 1, 1976, the previous enroll-

ment date restriction was eliminated from the eligibility criteria, enabling many older and legitimately independent students to apply and be eligible for Basic Grants.

II Are Parents and Students Attempting to Subvert the System?

It is also important to try to determine if a substantial number of parents who have the primary responsibility and the financial ability to help pay for their children's education are, in fact, "subverting" the system by not claiming their offspring as income tax exemptions in an attempt to make them eligible for federal funds as independent students. Needless to say, if it can be proven that parents are, in fact, increasingly attempting to subvert the system, then steps need to be taken to correct the situation. The best method of correcting the problem many not, however, lie in requiring an additional year of proof that the student has not been claimed as an exemption, but may more appropriately be addressed through stricter verification.

III Is the New Proposed Definition an Improvement?

The proposed change to provide an extension of the residency limitation from two weeks to six weeks is viewed as a positive improvement through the elimination of one of the most arbitrary and unrealistic portions of the current definition.

On the other hand, the extension of the federal tax exemption criteria for two calendar years prior to the academic year for which aid is requested, is viewed with mixed emotions. Certainly problems of verification will be more complicated since institutions initially will be forced to collect two year's of parents' income tax forms.

There is also general consensus that the $600 financial assistance level should be increased to $750, which would conform to the standard income tax exemption for a dependent.

IV What Are the Implications of Implementing this New Proposed Definition?

The implication that the proposed regulations are expected to be in effect during the 1978-79 academic year is of serious concern to all sectors. Institutions in general have already begun publication of catalogues, financial aid brochures and other informational documents which have outlined the independent student criteria according to the current definition. Further, national need analysis processing systems, state agencies and other non-federal student aid programs have already developed and are implementing their programs, forms and procedures for 1978-79. An attempt to change the definition at this late date would be impossible for these agencies and institutions and would only create confusion in administering the programs.

We, therefore, strongly suggest that the Office of Education delay implementation of any new definition until the 1979-80 academic year.

In light of the aforementioned factors, we would encourage the Office of Education to:

1. Carefully review and analyze the comparative data collected by the Office of Education and other agencies to determine the extent to which parents and students are attempting to subvert the system;
2. Carefully review and analyze all of the public comments in an effort to determine the best course for future modifications to the definition;
3. Retain the current definition for the 1978-79 academic year;
4. Initiate specific regulations which clearly allow the financial aid administrator to make adjustments in the student's eligibility for campus-based programs to offset inequities created as a result of the formula nature of the Basic Grant program and the independent student definition which is utilized;
5. Publish not later than January 1, 1978 final regulations covering the

definition of independent students to enable legislators, agencies and institutions adequate lead time to modify programs and publications.

We have appreciated the opportunity to appear before you today and hope that you will continue to call upon us when we can be of assistance.

Mr. MARTIN. That concludes our remarks. I would be happy to answer any questions you have about our specific positions.

Mr. FORD. There has been discussion about the specifics of the Office of Education recommendations on these programs. The only difference you have is instead of $17,000 you have $17,500.

Mr. MARTIN. It is a small difference, Mr. Chairman. But there was a feeling among several of our members that if we are to maintain true equity in the program that this is needed since the personal asset actually benefits more people in terms of an allowance than does the one for farm or business. Farms and businesses have certain offsets against their income that are not available to typical wage and salary earners. That is why we have recommended the difference. We decided that if we are going to keep some balance and equity for all people in the program, which we subscribe to, then that level needs to be a little higher in order to achieve and insure that kind of equity.

Further, when we all look at application data we realize there will be certain kinds of shifts from year to year and that economic conditions will change. So we make assumptions and try to come up with the very best analysis and estimates that we have before us and we are bound to have some slight difference with our models. But I think we are fairly close. They are certainly within normal parameters that would be expected with estimates of this size.

Mr. CORNELL. How much of a difference would that $500 make in the number of recipients?

Mr. MARTIN I don't have a complete breakdown on that, Mr. Cornell. But I think it would be fairly slight in terms of the numbers that the Office of Education gave to you. If it helped 4,000 or 5,000 students across the country in terms of achieving equitability, then we would support it.

Mr. CORNELL. You stressed the need for consideration of the single student with dependent children. Do you have any figures presently?

Mr. MARTIN. The data is very difficult to come by for the simple fact that the current models that are used to develop basic grant estimations do not take into consideration factors necessary to delineate between independent single students.

We have come up with information recently which Mr. Kornfeld and Mr. Voigt gave you here regarding independent students in general and the percentage of those that are over the age of 23. But the models at the present time do not allow us to go into estimations for those students, and what the total cost will be. We do know they will be much more significant than the kinds of assets changes that we have suggested here in terms of broadening the base for all students.

However, to estimate the exact program costs is not feasible at the current time. We feel it is the kind of question that needs to be looked at and information that should be provided to the subcommittee so they can look at the whole independent student question a year hence in making a recommendation. But it is hard to justify this difference in equity when we know what is happening to the current population, and the increasing number of returning single students that have children who are coming back to campus.

Mr. CORNELL. That figure struck me before about the age. Still we don't know—probably a higher percentage than those that are married. You don't happen to know those that are single and self-supporting.

Mr. MARTIN. That is correct. If we get that information you can be assured that we will be happy to provide it to you.

Mr. FORD. The difficulty in dealing with this is that it is really sort of guesswork. We don't know how many of those independents with dependents that you are describing are out there who haven't applied.

Mr. MARTIN. We do not at the present time. With independent students I think the evidence would show that they would have smaller asset holdings than do the typical dependent student. I think that is a safe assumption.

So an asset reserve for independent students to adjust some inequities might not have to be as high for those individuals as it is for typical married couples or parents of dependent students.

Mr. FORD. Thank you very much again. Let me thank you for the tremendous cooperation you and your people have given to the staff of the committee in trying to solve this problem.

Mr. MARTIN. Thank you, Mr. Chairman.

Mr. FORD. The committee will stand in recess.

[Whereupon, at 4 p.m. the subcommittee adjourned, to reconvene at the call of the Chair.]

APPENDIX

The Coalition of Independent College and University Students
1730 Rhode Island Avenue N.W. Suite 500 Washington D.C. 20036

STATEMENT OF THE COALITION OF
INDEPENDENT COLLEGE AND UNIVERSITY STUDENTS

before the

HOUSE COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON POSTSECONDARY EDUCATION

September 12, 1977

The Coalition of Independent College and University Students (COPUS) thanks the Subcommittee for this opportunity to comment on the 1978-79 Family Contribution Schedule and on the proposed Office of Education revision of the definition of "independent students."

Family Contribution Schedule

COPUS applauds the extension of eligibility for student aid through expansion of the assets allowances. While we concur with the recommendations of the higher education community increasing personal assets to $17,500, farm assets to $50,000, and business assets to $50,000, our organization would have suggested an increase to $20,000 in personal assets. Unfortunately, there is not enough money in the Budget to do this and still increase the asset allowances in the other two categories. A more substantial increase in the personal assets allowance would have more profoundly expanded student eligibility for student financial assistance to the middle class.

Office of Education Proposed Revision of the Definition of Independent Students

As members of the Subcommittee are aware, the Office of Education has proposed changes in the definition of "independent students." The Coalition would like to repeat the testimony we gave at the August 8, 1977 Washington, D.C. hearing on the change.

The Coalition's recommendations are as follows:

1. We agree with the more realistic change of two to six weeks in the residency requirement.

2. We recommend an increase to $750 from $600 in the allowable contribution to an independent student from family sources. This change will bring this allowance in line with the family income tax deduction as was the case in the past.

3. We oppose the extension of the Federal tax exemption rule to apply for two calendar years prior to the year for which aid is requested, rather than the present one calendar year rule.

Mr. Leo Kornfeld, Deputy Commissioner, Bureau of Student Financial Assistance, U.S. Office of Education, in testimony before this subcommittee indicated that the new definition would not be implemented until the 1979-80 academic year, rather than the proposed 1978-79 academic year. He stated that college administrative problems were the primary reason for the postponement in the date of implementation. Mr. Kornfeld further stated the Office of Education will study the entire question of independent students' relationships to student assistance. A report, he indicated, would be issued in March of 1978.

There are serious administrative difficulties in an early implementation of the new regulation. However, there is a very serious policy question involved with the proposed change. While the Office of Education has a responsibility to prevent abuse of aid programs, we do not believe an additional year's extension of the tax exemption criteria will substantially prevent abuse. In this case, it is our opinion, that abusive problems are ones of verification.

It is our contention that extension of the federal tax exemption criteria to apply for two calendar years prior to the year for which aid is requested will decrease access to postsecondary education. Many students do become "independent" for very legitimate reasons and some flexibility is necessary to ensure these students have access to college through student aid programs.

We are aware of cases where parents have refused to contribute to their child's higher education expenses. This abdication of parental responsibility is regrettable and inexcusable. But, if a student in such a case is to attend college, then they must have reasonable access to Federal student aid programs. Students many times will take a year off and go to work in order to become

financially independent from parents who refuse to accept their responsibilities. To extend the definition to two years will place these types of students at a disadvantage, even hardship, in trying to better themselves through postsecondary education.

Also, we are aware of parents who decline to contribute to a child's educational costs simply because the student intends to major in an academic subject of which the parent disapproves. Again, what choice does the student have but to "stop out" for a time and become independent? We must not place these students at a disadvantage because of circumstances over which they have no control. Children can not force parents to accept their responsibilities.

The Office of Education must withdraw the proposed regulation until they can document massive abuse of the present definition. Further, OE must demonstate that access to postsecondary education through Federal financial aid will not be illegitimately reduced by the proposed two year rule. Although implementation of the regulation has been postponed, we have yet another example of OE regulating without sound evidence of a problem or with assurances to the Congress that the intent of the regulation is to prevent abuse without illegitimately reducing access to higher education.

Further, it seems to us that if OE believes there is a problem with the current definition of independent students, then it is incumbent on the Office of Education to recommend legislative remedies and not regulate on its own. It does not seem appropriate to us for OE to reduce access to Federal student aid unilaterally. The Congress is vested by Article I, Section I of the Constitution with the sole law-making power in the nation. If the bureaucracy sees a policy problem, then they are to recommend changes in the law and not

set policy themselves through the regulatory process.

In conclusion, the Coalition of Independent College and University Students recommends the Congress examine further the proposed redefinition of independent students. Further, we call on the Office of Education to not postpone, but withdraw their regulation in this area.

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CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON POSTSECONDARY EDUCATION
619 HOUSE OFFICE BUILDING ANNEX #1
WASHINGTON, D.C. 20515

August 4, 1977

Hon. Ernest Boyer
Commissioner
U.S. Office of Education
Department of Health, Education
and Welfare
Washington, D. C.

Dear Mr. Commissioner:

The Subcommittee on Postsecondary Education is reviewing the Office of Education's notice of proposed rulemaking dated July 12 which would change the definition of independent student for financial assistance programs.

As we anticipate the possibility of holding public hearings on this subject, we would appreciate further information on the data used by the Office of Education to devise this amended definition and an explanation of the expected impact, particularly on the Basic Educational Opportunity Grant Program, of each of the two proposed changes.

Your comprehensive, detailed and timely response will be of great assistance to us.

With kind regards, I am

Sincerely,

WILLIAM D. FORD
Chairman

WDF:pmp

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

SEP 2 1977

Honorable William D. Ford
Chairman, Subcommittee on
Postsecondary Education
Committee on Education and Labor
House of Representatives
Washington, D.C.

Dear Mr. Ford:

Thank you for your letter concerning the proposed revision in the definition of an "independent student" published in the Federal Register as a notice of proposed rulemaking on July 12.

The current regulations for the Basic Grant Program and for the three campus-based Federal financial assistance programs (National Direct Student Loans, College Work-Study, and Supplemental Educational Opportunity Grant) define an independent student as one who, during both the year for which aid is requested and the prior calendar year, has not been claimed by any person except his spouse as an exemption for Federal income tax purposes, has not received financial assistance of more than $600 from his parents, and has not lived for more than two consecutive weeks in his parents' home.

The proposed revision is an effort by the Office of Education to respond to a viewpoint which is frequently expressed within the financial aid community that the current definition is not a satisfactory means for determining if a student should realistically be expected to call upon his parents as a source of assistance in meeting his educational costs. As a part of this effort the Office of Education solicited comments from the financial aid community by publishing in the Federal Register on November 29, 1976, a notice of intent to issue regulations, in which the problem with the current definition was discussed. The public was invited to comment on the definition in its current form and to suggest any changes which would reinforce the concept that the primary responsibility for financing the cost of postsecondary education rests with the student and his parents, without penalizing the truly independent student and without being unduly difficult to administer. All comments which were received, both by mail and at the five hearings held in various cities, were given careful consideration. Additionally, in January of this year the Office of Education held an invitational seminar attended by representatives of the financial aid community to discuss possible alternatives for revising the definition. In response to the public comments and the discussions with representatives of the financial aid community, the Office of Education issued the notice of proposed rulemaking proposing two changes in the definition which reflected the general consensus of the comments received.

The two proposed changes did not result from a study of statistical data compiled by the Office of Education. Rather, they are part of our continuing effort to respond to the concerns of the postsecondary education community.

The Federal income tax criterion was extended to apply for two calendar years prior to the year for which aid is requested (instead of the current one calendar year) primarily as a result of concern about abuse of the definition. A number of commenters pointed out that of the three criteria this is the only one that is readily verifiable through supporting documentation. Consequently, a potential area of abuse exists in which a student could claim independent student status because he and his parents agreed in advance that they would not claim him as an income tax exemption during the year prior to the year he intended to apply for aid. The proposed revision, while admittedly not eliminating this problem, will certainly make it more difficult to establish independent student status through advance planning on the part of the student and his parents.

There appeared to be a general consensus in the received comments that if residency is to be used as a test of dependence, the current definition is too restrictive in setting a two-week limitation on the amount of time during a year which a student may reside with his parents and still be considered independent. The extension of the residency limitation from two weeks to six weeks is an attempt to respond to this concern.

Enclosed with this report are several tables providing information about the independent student segment of the Basic Grant applicant population for the 1976-77 academic year. It should be noted, however, that this program data does not permit a precise assessment of the impact on the student population of the proposed amendments to the definition. To the best of our knowledge, such data is currently not available. At the same time, however, some general observations on the effect of the proposed definition may still be made.

Specifically, program data indicates that about 69 percent of all independent applicants are 23 years of age or older. Given this age level, it is reasonable to assume that this category of independent applicants are least likely to be affected by the proposed definition, as the vast majority of these students can be expected to be truly self-supporting for considerable periods of time.

On the other hand, some 31 percent of the independent applicants are 22 years of age or younger. During the 1976-77 academic year, about 350,000 of the independent applicants fell in this age category. Obviously, the

proposed definition would more directly affect this category of applicants in the sense that a certain proportion of these applicants would be considered as dependent on parental resources under the proposed rule. At the same time, it is our view that if any deliberate circumvention of parental responsibility were to occur it would probably involve students in this age category, since these younger students are more likely to be receiving support from their parents.

Finally, we are also sensitive of the fact that regardless of which criteria for determining dependence or independence are under consideration, questions of equity and fairness invariably are raised. This issue is of particular concern with respect to the Basic Grant Program. However, it is our view that accommodation of potential inequities under the Basic Grant Program is possible by applying discretionary judgments under the campus-based programs for those students for whom parental resources were included in the determination of Basic Grant eligibility, but who in the professional judgment of the financial aid officer cannot be expected to receive financial support from their parents. In these situations, the expected parental contribution may be waived at the discretion of the financial aid officer in determining eligibility for aid under the campus-based programs. Regulatory authority permitting such discretionary judgments on the part of the financial aid officer is already contained in the regulations governing the campus-based programs.

I hope this information will be useful to you. If I can be of any further assistance as you review the proposed change in the definition, please let me know.

Sincerely,

John Ellis

Acting U.S. Commissioner
of Education

Enclosures

ELIGIBILITY INDEX LEVEL BY FAMILY INCOME
FOR ALL INDEPENDENT APPLICANTS
(1976 - 1977)

ELIGIBILITY INDEX LEVEL	INCOME RANGE							TOTAL
	$0 2,999	3,000 4,499	4,500 5,999	6,000 8,999	9,000 11,999	12,000 14,999	15,000 +	
0-200	372,472 (74.2%)	134,836 (94.6%)	69,664 (69.4%)	30,598 (29.3%)	1,829 (11.1%)	128 (8.7%)	56 (29.9%)	609,583 (70.3%)
201-400	27,800 (5.5%)	3,710 (2.6%)	11,853 (11.8%)	13,476 (13.4%)	1,236 (7.5%)	57 (3.9%)	5 (2.7%)	58,617 (6.7%)
401-600	27,354 (5.4%)	1,192 (0.8%)	9,314 (9.3%)	15,920 (15.2%)	1,804 (11.0%)	147 (10.0%)	15 (8.0%)	55,755 (6.4%)
601-800	28,734 (5.7%)	882 (0.6%)	5,106 (5.1%)	16,711 (16.0%)	2,746 (16.7%)	254 (17.2%)	20 (10.7%)	54,453 (6.3%)
801-1000	23,814 (4.7%)	824 (0.6%)	2,913 (2.9%)	15,015 (14.4%)	3,805 (23.2%)	378 (25.6%)	47 (22.5%)	46,791 (5.4%)
1001-1201	21,869 (4.4%)	1,054 (0.7%)	1,517 (1.5%)	12,394 (11.8%)	4,998 (30.4%)	510 (34.5%)	49 (26.2%)	42,391 (4.9%)
TOTAL	502,043 (100.0%)	142,498 (100.0%)	100,367 (100.0%)	104,623 (100.0%)	16,418 (100.0%)	1,474 (100.0%)	187 (100.0%)	867,610 (100.0%)
Percent of applicants with [illegible] income range	(57.9%)	(16.4%)	(11.6%)	(12.0%)	(1.9%)	(0.2%)	(0.02%) * Less than .1%	(100.0%)

SUMMARY OF INDEPENDENT STUDENT PROGRAM
PARTICIPATION RATES

	ACADEMIC YEAR				
	1973-74	1974-75	1975-76	1976-77	1977-78*
TOTAL VALID APPLICANTS	482,331	1,114,084	2,178,696	3,426,504	3,481,834
TOTAL INDEPENDENT APPLICANTS	59,102	217,718	584,232	1,239,500	789,259
PERCENT INDEPENDENT	12.3%	19.5%	26.8%	36.2%	11.4%
TOTAL QUALIFIED APPLICANTS	268,444	681,648	1,455,187	2,269,348	1,587,467
PERCENT OF TOTAL APPLICANT	55.7%	61.2%	66.8%	66.2%	64.6%
TOTAL QUALIFIED INDEPENDENT	35,803	140,941	433,251	867,610	565,967
PERCENT INDEPENDENT QUALIFIED	60.6%	64.7%	74.2%	70.0%	71.7%

* BEOG NATIONAL SUMMARY STATISTICS AS OF 7/26/77/

ELIGIBLE AND INELIGIBLE INDEPENDENT APPLICANT-FAMILY SIZE
BY AGE
(1976-77)

FAMILY SIZE	APPLICANT'S AGE			TOTALS
	22 or Less	23 - 27	28 and Over	
Single Independent Applicants	211,195	174,634	84,266	470,095
Percentage	44.9%	37.2%	17.9%	100.0%
All Other Independent Applicants	157,999	268,590	341,210	767,799
Percentage	20.6%	35.0%	44.4%	100.0%
Total Independent Applicants	369,194	443,224	425,476	1,237,894
Percentage	30.0%	35.8%	34.3%	100.0%

ELIGIBLE INDEPENDENT APPLICANTS FAMILY SIZE BY AGE
(1976-1977)

FAMILY SIZE	APPLICANT'S AGE			TOTALS
	22 or Less	23 - 27	28 and Over	
Single Independent Applicants	140,908	94,888	45,877	281,673
Percentage	50%	33.7%	16.3%	100.0%
All Other Independent Applicants	134,960	209,249	240,496	584,705
Percentage	23.1%	35.8%	41.1%	100.0%
Total Independent Applicants	275,868	304,137	286,373	866,378
Percentage	31.8%	35.1%	33.1%	100.0%

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CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON POSTSECONDARY EDUCATION
515 HOUSE OFFICE BUILDING ANNEX 1
WASHINGTON, D.C. 20515

September 16, 1977

Hon. Ernest Boyer
Commissioner
U. S. Office of Education
Department of Health, Education
and Welfare
Washington, D. C.

Dear Mr. Commissioner:

In light of the complex nature of the problem which has recently developed with respect to proprietary schools and their eligibility under the Basic Educational Opportunity Grant program, I am submitting further questions to supplement the testimony of Mr. Leo Kornfeld and Mr. John Profitt before our Subcommittee on September 12. As you know, the problems have arisen, not because of any change in the law, but because of various communications from HEW and the Office of Education.

Because of these communications, some of which have indicated that the Office of Education intends to issue a regulation in the near future which will define the number and percentage of non-high school graduates who may be enrolled as regular students in an eligible program, several Members of Congress have contacted this Subcommittee registering their concern. They are requesting an explanation as to why various proprietary schools are under the impression that their status of eligibility may be threatened because of a change in policy.

I am therefore requesting an immediate and complete response to the following questions:

What is the present policy with respect to eligibility of students attending proprietary schools to receive Basic Educational Opportunity Grants? Please explain by citing specific statutory language how this policy is consistent with the law.

If the policy has not changed, please explain what you think may be the reason for the confusion and controversy which has arisen with respect to this matter during the past several weeks.

Please furnish the Subcommittee with a list of the names of all proprietary schools which have lost their eligibility to participate in the Basic Grants program since 1973, including an explanation for the loss of eligibility in each instance. If any institution lost its eligibility because of the enrollment of students who were non-high school graduates, please indicate the number of students in each case and the percentage of the entire student body which this number represents. Indicate further whether or not these non-high school graduates were considered "regular" students by both the Office of Education and the institution which enrolled them.

Since the Basic Educational Opportunity Grant program is a student entitlement program, does your proposed regulation in any way divest, curtail or limit such student eligibility for the Basic Grant because the program or curriculum is specially designed by the educational institution to provide Basic Educational Opportunity Grant recipients with remedial work including access to a high school diploma or the GED at any institution which also admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate? If so, please explain the statutory basis for such an exclusion from or limitation on such a specially designed curriculum or program of instruction of an educational institution having met the statutory definition under Section 491(b) of the Higher Education Act as amended and in the light of the prohibition against federal control of education in Section 432 of the General Education Provisions Act.

Congressman Mario Biaggi has asked that the following specific questions in connection with this issue be submitted for the record along with your responses.

Has the Office of Education implemented this "five percent rule?" If so, why has it acted with first promulgating regulations as governed by Section 431(d) of the General Education Provisions Act? (This section mandates that Office of Education rules and regulations are not effective until the 45-day period for Congressional review is completed). (out)

In 1972, when first enacting Basic Grants, the Congress determined that public, non-profit and proprietary schools should all participate. In the Education Amendments of 1976, the eligibility of public and non-profit schools was expanded, and eligibility of proprietary schools was left unchanged. The explanation of managers stated that "..."This amendment will bot terminate the eligibility for federal assistance of any institution that was eligible under previous law." (Page 210 of Conference Report). In 1977, in a technical amendment, the Congress reaffirmed this position amending Section 181 of the 1976 law. The 1977 amendment directs that the 1976 law not be interpreted to terminate eligible proprietary schools. Given this five years of legislative history, does the Office of Education find any evidence of Congressional intent to eliminate proprietary schools? If so, what Member of Congress or staff person has expressed such an intent?

Due to a reorganization ordered by Secretary Califano, program operations are now separated from determinations of institutional eligibility. What Office of Education official is responsible for the preparation of the regulations on the "five percent rule?"

On behalf of Congressman John Brademas, who was unable to attend the September 12 hearing, I am requesting your office's response to the following question:

I note that the statistical information provided in the appendices to the Deputy Commissioner's prepared statement is based on Basic Grant "applicants." It would seem apparent to me that the most relevant data would be on

"recipients," those who actually got Basic Grants, rather than on applicants for Basic Grants. Could the Deputy Commissioner in the future supply the Subcommittee with data based on Basic Grant recipients?

Congressman Brademas further asked me to express his appreciation to Mr. Kornfeld for his openness and candor in consulting with his staff regarding the reorganization of the Bureau of Student Financial Assistance. He asked me to request a status report from the Office of Education on the reorganization of this bureau.

The following six questions were submitted to me by Congressman Quie who was also unable to be present at the hearing. I assured him I would request responses from you.

Rather than starting the practice of adjusting asset reserves through appropriationsbills -- or by amendment to the authorizing Act -- couldn't you consider a plan to raise the asset reserve levels in $1000 increments whenever an appropriate national index reflected inflationary increases in property justifying the incremental adjustment? We do it for annual family size offset increases.

Next you will have to go back from the $200 minimum award to $50. What are the pros and cons of changing the legislation to drop the $50 minimum at less than full funding?

How does a family estimate its personal farm or small business assets?

What validation studies have been completed to give us an idea of how accurate people are in reporting assets? Income? What percentage of application forms are checked against the figures reported to the Internal Revenue Service on income tax statements?

Is it correct that a student who lived with his parents during January and February of 1976 and then got married in March of 1976 and moved out to live with his wife would be a dependent student this September even if he

received less than $600 from his parents in either 1976 or 1977 and was not taken as a tax exemption by his parents for either year? Wouldn't the proposed new rule result in the same dependency status for students who got married even a year earlier?

Figure 1 of Mr. Kornfeld's statement shows 140,000 veterans receiving BEOGs last year. Do you know how many of these are independent? Whether full-time or part-time students? How many are married? Do you feel our treatment of veterans under the GI Bill is fair? If not, what would you recommend?

Several of your charts combine eligible and ineligible applicants. Can many valid conclusions be drawn on the numbers and percent of ineligible applicants? It would be easy to stimulate hundreds of thousands of ineligible applicants. What are you doing to inform ineligible applicants of their probable ineligibility before they go through the time consuming application process?

Your cooperation by immediately responding to the questions relating to the BEOG proprietary school problem would be appreciated. I am particularly interested in your statement for the record as to whether the Office of Education intends to publish regulations limiting eligibility of proprietary schools for Basic Grants to those which enroll less than five percent non-high school graduates.

Your reply to these questions and your subsequent response to the questions on other issues will become part of the hearing record.

With kind regards, I am

Sincerely,

WILLIAM D. FORD
Chairman

WDF:tjp

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

OCT - 7 77

The Honorable William D. Ford
Chairman
Subcommittee on Postsecondary Education
Committee on Education and Labor
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter of September 16 in which you pose a number of questions with respect to proprietary schools and their eligibility under the Basic Educational Opportunity grant program, a subject which was discussed when Leo Kornfeld, Peter Voigt, and John Proffitt appeared before your Subcommittee on September 12.

I am pleased to respond to your requests for clarification of Office of Education policy regarding the treatment of proprietary schools under the BEOG program relative to the admission of non-high school graduates. We have, on the basis of a review of the so-called "five percent rule," decided not to propose such a regulation. The reasoning behind that decision and the problems arising from certain relevant statutory provisions are discussed in detail in our responses to the first seven questions in your letter of September 16.

In addition, I am enclosing responses to additional questions raised by members of the Subcommittee regarding the reorganization of the Bureau of Student Financial Assistance as well as the Basic Educational Opportunity Grant Family Contribution Schedule. Those questions and responses are numbered 8 through 16 in the enclosed materials. As you indicated, this information is for inclusion in the hearing record.

I hope the information contained in our responses will be helpful to you and your colleagues.

Cordially,

Ernest L. Boyer
U.S. Commissioner
of Education

Enclosure

RESPONSES TO QUESTIONS RAISED IN CHAIRMAN FORD'S LETTER OF SEPTEMBER 16, 1977

1. **What is the present policy with respect to eligibility of students attending proprietary schools to receive Basic Educational Opportunity Grants? Please explain by citing specific statutory language how this policy is consistent with the law.**

The Basic Grant Program was enacted in 1972 by the Education Amendments of 1972, Public Law 92-318. Under the program, students enrolled and attending institutions of higher education as undergraduates on at least a half-time basis are eligible to receive Basic Grants (20 U.S.C. 1070a). That statute also permitted students attending proprietary institutions of higher education to receive Basic Grants (see Section 491(b)(1) of the Higher Education Act, 20 U.S.C. 1088(b)(1)).

Section 491(b)(3) sets out the definition of a proprietary school. Under that provision a proprietary institution of higher education must (1) "provide not less than a six-month program of training to prepare students for gainful employment in a recognized occupation," (2) "admit as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate," (3) "be legally authorized within such State to provide a program of education beyond secondary school," (4) "not be a public or other nonprofit institution," (5) "be accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose," and (6) "have been in existence for two years (20 U.S.C. 1088(b)(3). (Emphasis added.)"

Section 131 of the Education Amendments of 1976, P.L. 94-482, amended the statutory definition of a public or nonprofit private institution of

higher education set forth in Section 1201(a) of the Higher Education Act (20 U.S.C. 1141(a)). This amendment added a separate provision that in the case of a public or nonprofit private educational institution, persons may be admitted as regular students if they are not high school graduates or the equivalent but are beyond the age of compulsory school attendance and have the ability to benefit from the training offered.

Subsection (b)(7) of the first section of P.L. 95-43 provided, in essence, that any changes made to Section 1201(a) of the Higher Education Act by Section 181 of P.L. 94-482 did not authorize the Commissioner to terminate the eligibility of an institution of higher education that was previously eligible under Section 1201(a) before the enactment of Section 181.

Thus, neither of these Acts changed the eligibility requirements for a proprietary institution of higher education.

Under a strictly literal interpretation of Section 491(b)(3), the only accredited proprietary schools which qualify as eligible institutions for purposes of the BEOG Program are those that restrict their admission of regular students to those persons having a certificate of high school graduation or its equivalent.

However, the Office of Education did not believe that the Congress intended to hold a school ineligible if it admitted merely a de minimis number of non-high school graduates as regular students. Consequently, the Office of Education has taken the position that in such cases, eligibility would not be terminated. The number or percentage which constitutes "de minimis" has never been set.

In order to be more specific as to what constitutes a "de minimis" number, the Office had considered proposing a regulation which would have allowed up to 5 percent non-high school graduates to be enrolled without affecting a school's eligibility. On the basis of further review, it appears that the "5% rule" would not provide relief in many cases. We have, consequently, decided not to propose such a regulation and announced that position in hearings before the Senate on September 21. Discussions will continue, however, as to the resolution of the problems that have arisen as a result of the statutory provision in question.

2. If the policy has not changed, please explain what you think may be the reason for the confusion and controversy which has arisen with respect to this matter during the past several weeks.

The Office of Education policy and procedure, as outlined in the preceding paragraphs, has not changed recently. The matter surfaced last spring because program audits by the Basic Educational Opportunity Grant personnel began to find some institutions where the percentage of non-high school graduates, or holders of a recognized equivalency, enrolled in the institution and receiving Basic Grant funds was greater than forty percent (40%). Such percentages are clearly too high to meet the statutory requirement, and in the absence of a "de mininis" determination, the Office felt that it has to take positive action against schools found clearly to be in violation of the law. The publicity attendant on such action against one school in New York State has generated most of the widespread concern currently being expressed.

3. Please furnish the Subcommittee with a list of the names of all proprietary schools which have lost their eligibility to participate in the basic grants program since 1973, including an explanation for the loss of eligibility in each instance. If any institution lost its eligibility because of the enrollment of students who were non-high school graduates, please indicate the number of students in each case and the percentage of the entire student body which this number represents. Indicate further whether or not these non-high school graduates were considered "regular" students by both the Office of Education and the institution which enrolled them.

Since 1973, the eligibility status of approximately two hundred proprietary schools has been terminated for the following reasons:

loss of accredited status

loss of state license

closure

merger with another eligible institution.

Since 1973, the eligibility status of the following proprietary schools has been terminated for reasons other than those listed above:

Institute of Computer Technology
Oak Park, Michigan

Terminated on October 20, 1975 because it did not offer at least one course of study which is at least six months in length.

Mildred's Beauty College
Chicago, Illinois

Terminated on August 13, 1976 because school did not admit as regular students only persons having a certificate of graduation from a school providing a secondary education or the recognized equivalent of such a certificate.

The owner, Mrs. Mildred Green, has since been found guilty of fraud and has since been sentenced. School's accredited status was also withdrawn on 2-2-77.

Ultissima Beauty Institute
Flushing, New York

Terminated on July 5, 1977 because school did not admit as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent, of such certificate. 45.3 percent (45.3%) of students enrolled from March, 1973 to February 29, 1976 were non-high school graduates.

Eligibility was restored on July 29, 1977 after the school agreed not to enroll non-high school graduates in their regular programs.

We do not have at hand a tabulation of all the schools that have lost eligibility status since 1973, with the accompanying reason for the loss of eligibility in each instance. Such a list could be compiled if you feel it is necessary.

4. Since the Basic Educational Opportunity Grant Program is a student entitlement program, does your proposed regulation in any way divest, curtail or limit such student eligibility for the basic grant because the program or curriculum is specially designed by the educational institution to provide Basic Educational Opportunity Grant recipients with remedial work including access to a high school diploma or the GED at any institution which also admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate? If so,

please explain the statutory basis for such an exclusion from or limitation on such a specially designed curriculum or program of instruction of an educational institution having met the statutory definition under Section 491(b) of the Higher Education Act, as amended, and in the light of the prohibition against Federal control of education in Section 432 of the General Education Provisions Act.

As indicated above, the Office of Education has decided not to propose a regulation dealing with the percentage of non-high school graduates which may be enrolled in a proprietary school. Our policy is to not terminate eligibility status if a "de minimis" number of non-high school graduates is admitted as regular students. Many schools give these students additional training, as required, to compensate for their lack of formal education. Programs of study which do not require that regular students hold high school graduation certificates or recognized equivalency certificates may become eligible only for the Guaranteed Student Loan Program, under the law.

Congressman Biaggi's questions:

5. Has USOE implemented this "5% rule"? If so, why has it acted without first promulgating regulations as governed by Section 431(d) of the General Education Provisions Act? (This Section mandates that OE rules and regulations are not effective until the 45-day period for Congressional review is completed.)

We have not implemented the "5%" rule. Under some liberal interpretations in the past some indications have been given that some percentage of leeway might be acceptable even though the statute could easily be read as making ineligible an institution if it admits non-high school graduates as regular students. A "5%" proposal would have been a way to implement such a liberalizing approach.

6. In 1972, when first enacting Basic Grants, the Congress determined that public, non-profit and proprietary schools should all participate. In the Education Amendments of 1976, the eligibility of public and non-profit schools was expanded, and eligibility of proprietary schools was left unchanged. The explanation of managers stated that .... "This amendment will not terminate the eligibility for Federal assistance of any institution that was eligible under previous law." (Page 210 of Conference Report). In 1977, in a technical amendment, the Congress reaffirmed this position amending Sec. 181 of the 1976 law. The 1977 amendment directs that the 1976 law not be interpreted to terminate eligible proprietary schools. Given this five years of legislative history, does the Office of Education find any evidence of Congressional intent to eliminate proprietary schools? If so, what Member of Congress or staff person has expressed such an intent?

We do not find any evidence of the intent of Congress to "eliminate" proprietary schools, but the law clearly places distinctions between proprietary and non-proprietary schools on the matter of admission of non-high school graduates and its effect on BEOG eligibility. We do not agree with the thrust of the interpretation of legislative history given in this question and feel that the interpretation contained in our response to question 1 in this letter is better.

7. Due to a reorganization ordered by Secretary Califano, program operations are now separated from determinations of institutional eligibility. What Office of Education official is responsible for the program administration and preparation of the regulations on the "5% rule"?

On regulations affecting institutional eligibility, primary responsibility for preparation rests with the Director of the Division of Eligibility and Agency Evaluation in the Bureau of Higher and Continuing Education (BHCE). Since such regulations affect the Bureau of Student Financial Aid (BSFA) programs as well as BHCE, the development of language would be coordinated with that Bureau as well as going through the extensive clearances at all policy levels applied to all regulations.

Congressman Brademas' requests:

8. I note that the statistical information provided in the appendices to the Deputy Commissioner's prepared statement is based on Basic Grant "applicants." It would seem apparent to me that the most relevant data would be on "recipients," those who actually got Basic Grants, rather than on applicants for Basic Grants. Could the Deputy Commissioner in the future supply the Subcommittee with data based on Basic Grant recipients?

We concur with Congressman Brademas that recipient data is useful and, in certain instances, examination of recipient data would tend to provide more insight into program operations than applicant data. Recently, we have implemented a major effort designed to obtain the data. In fact, we are at this time beginning to review some preliminary results of this effort. Once completed, we will be able to provide data distributions which, heretofore, we have not been able to produce. The production of this statistical information is scheduled to be completed by October 31, 1977.

Examples of statistical information we will be able to share at that time include Basic Grant recipients by income and educational costs, both for dependent and independent students as well as for the entire recipient population. Additional examples of data this effort will yield will be recipients by educational cost range and award level and recipients by eligibility index and educational cost range.

As noted above, the scheduled completion date for this project is October 31, 1977. We will, subsequent to this time, be happy to share this new information with the Congress and provide specific analyses of the programmatic impact of this statistical data.

9. Congressman Brademas requested a status report on the reorganization of the Bureau of Student Financial Assistance.

As you know, over the past several months we have been heavily engaged in developing organizational plans for the new Bureau of Student Financial Assistance which was announced by Secretary Califano on March 8, 1977, as part of his reorganization of the Department. To date, we have made significant progress in implementing the organizational structure of the new Bureau. Specifically, the proposed organizational structure through the Division level was formally published in the Federal Register on September 9, 1977. A copy of this announcement is enclosed for your information. (Please see Attachment A) In addition, on September 26, 1977, the acting Division Directors and Regional Administrators were appointed. We have also attached names of these individuals for your information. (Please see Attachment B)

At the present time, we are in the process of completing our proposed staffing plans below the Division level. This effort is being conducted in consultation with the appropriate Office of Education Personnel and Management staffs. Upon completion of these negotiations, the complete organization and staffi[illegible]posals will be presented for review by the Employees' Union. Based on current schedules, it is our hope that the new organizational structure and staffing will be fully implemented and operational during the latter part of October.

We are certainly appreciative of Mr. Brademas' complimentary comments regarding our organizational efforts and stand ready to provide any additional information as we proceed with the implementation of the new Bureau.

Congressman Quie's questions:

10. Rather than starting the position of adjusting grant reserves through appropriation bills--or by amendment to the authorizing Act--couldn't you consider a plan to raise the grant reserve levels in $1,000 increments whenever an

appropriate national index reflected inflationary increases in property justifying the incremental adjustment? We do it for annual family size offset increases.

With regard to the suggestion made by Congressman Quie that a plan be implemented which would automatically raise the asset reserve treatment in the Family Contribution Schedules of the Basic Grant Program in $1,000 increments when an appropriate national index reflects an inflationary increase, we would like to begin our response by underscoring the significance of the phrase "appropriate national index." The fact is that there is no nationally recognized index similar to the Consumer Price Index, for example, which would serve this function. There exist, of course, certain asset indices such as the "specialized implicit price deflator for private residential structures" used in the macro-economic model operated by the Congressional Budget Office.

In fact, this deflator is currently used in the Cost-Estimation Model for the Basic Grant Program. It is, however, an approximate indicator rather than a direct indicator of asset reserve changes since it reflects changes in home assets only. To the extent that inflationary changes of other forms of assets occur at different rates, the use of such an indicator would be faulty.

Given this situation, it may be more desirable to continue the practice of reviewing the asset reserve treatment every year, using program data to assess the impact of asset reserve treatments, and adjusting for any discernible inequities on the basis of this analysis.

11. Next you will have to go back from the $200 minimum award to $50. What are the pros and cons of changing the legislation to drop the $50 minimum at less than full funding?

The legislation currently specifies that the minimum Basic Grant at full funding is $200, whereas at reduced funding the minimum award is $50. At the $1,600 maximum award level, the $50 minimum would, of course, be in effect.

Given current appropriation trends, the decision to have a minimum award of either $50 or $200 is not likely to have a significant impact on large numbers of students because it is estimated that fewer than two percent of 1978-79 Basic Grant recipients would receive awards lower than $200. In fact, at this funding level, the minimum award for all students with costs of attendance greater than $1,750 is $176. For this reason, total program costs would be reduced by less than one percent. It should be emphasized that in the event that appropriations were such that awards would be significantly reduced from the authorized level in the law, the proportion of students receiving $50 awards would increase substantially. In that event, consideration may be given to limiting awards to a $200 minimum level.

In this context, one of the major goals of the Basic Grant program is to provide access to all students who wish to pursue a postsecondary education. The fact that students are eligible for an award of $50-$200 is not likely to significantly impact on decisions as to whether or not to continue their education. Furthermore, program regulations require that a student's award be disbursed in at least two equal payments, so that the amount of money being provided in each disbursement to the student is rather small. Disbursement of awards in such small amounts unnecessarily adds to the administrative burden of the institution.

One advantage of the proposal to keep the $200 minimum at all funding levels is that it would be consistent with the Supplemental Educational Opportunity Grant Program which, also by legislation, has a $200 minimum award. Secondly, this would provide consistency within the Program; if a $200 minimum is reasonable at full funding, it should also be reasonable at reduced funding.

12. How does a family estimate its personal farm or small business assets?

The question concerning the procedures to be used by a family to estimate its personal, farm, or small business assets surrounds a complicated issue.

The Basic Grant Application Form contains instructions to record the present "market value" of assets. Further, there are instructions not to use such valuations as Assessed Value, Insured Value, Taxed Value, etc.

It is felt that the current market value of most stocks, bonds, and other such securities can be ascertained by reference to the financial pages of a major metropolitan newspaper nearest to the applicant's home. The determination of the value of home, farm or business assets presents a greater problem. As noted above, applicants are specifically requested to avoid using assessed value, taxed value, etc. because procedures for determining such valuations vary widely from community to community. It is felt that considerable expertise and specific knowledge of local taxation practices would be required to calculate, on a formula basis, market value from assessed value of a specific home in a particular locale.

A more reasonable approach is to assume that individuals with assets in homes, farms, or businesses are made aware of their current market value by reference to prices paid for comparable asset holdings in their community. Thus, applicants are instructed to record their estimate of market value on this basis. It should also be noted that applicants are required to report debts against their asset holdings which are more readily obtainable.

13. What validation studies have been completed to give us an idea of how accurate people are in reporting assets? Income? What percentage of application forms are checked against the figures reported to the Internal Revenue Service on income tax statements?

There are certain obvious complexities involved in verifying assets which make a large-scale validation effort on this subject difficult to mount. To date, we have not conducted any nationally representative studies which focus on validating reported asset holdings. We have, however, conducted research into the accuracy of income reporting.

The Basic Grant Program conducted a statistical study with the assistance of the Internal Revenue Service in 1975 to determine the extent to which income information reported on the Basic Grant application form is similar to or at variance with income information reported on the IRS tax returns for various categories of applicants.

In the IRS comparison study, a representative sample of Basic Grant applicant records (126,800) were randomly selected from the 1974-75 applicant data base for comparison with IRS records. The most significant finding of this data comparison was that 81.5 percent of the total applicant population report incomes accurately within ± $200.

In addition, 13 percent of all applicants under-reported their incomes to the Basic Grant program by $200 or more and 5.5 percent over-report their incomes by $200 or more. These findings compare quite favorably with similar research findings conducted for applicants submitting forms to one of the major need analysis services.

We might also note that the Basic Grant program is in the process of conducting another such income comparison study with the assistance of the IRS for applicants that filed Basic Grant applications during the 1976-77 academic year. The Basic Grant program intends to conduct periodic statistical assessments of the scope and nature of misreporting to assess the general accuracy of income data reported on the Basic Grant application form and on the basis of specific discernible trends, review Basic Grant program procedures in order to maintain the accuracy of reported income data at acceptable levels.

Applicants are not required to submit copies of their IRS tax returns at the time of application. The Basic Grant program has conducted, in addition

to the IRS comparison study to determine the overall rate of misreporting, an effort to validate individual student reported application data since the 1975-76 academic year. Applicants are included in the validation effort on the basis of (1) sampling the applicant data base for high risk cases, determined by a set of pre-established criteria (PEC), and (2) referrals from institutions of higher education of cases containing discrepant information which cannot be resolved at the institutional level.

Applicants validated under the above mentioned categories were requested to supply: (1) a notarized copy of their (or parents') income tax return, (2) A notarized copy of their (or parents') W-2 forms, and (3) a notarized statement confirming the amount of the nontaxable income received in the year prior to which aid is requested. During the 1976-77 academic year, a combined total of approximately 7,100 (6,000 PEC and 1,100 institutional referrals) cases were validated. The final reports on the results of this validation effort are in draft stages.

For the 1977-78 academic year, a total of 8,000 applicants will be selected from the applicant data base for follow-up and an estimated 1,200 additional students which institutions are unable to validate will be referred to the Office of Education for follow-up and resolution.

14. Is it correct that a student who lived with his parents during January and February of 1976 and then got married in March of 1976 and moved out to live with his wife would be a dependent student this September even if he received less than $600 from his parents in either 1976 or 1977 and was not taken as a tax exemption by his parents for either year? Wouldn't the proposed new rule result in the same dependency status for students who got married even a year earlier?

Present regulations regarding the independent student state that any applicant who was claimed for Federal income tax purposes by his parents during the year prior to application (the base year), received more than $600, or

lived with his parents for more than two weeks, is defined as a dependent student and must report his parents' financial information. The rationale of the Office of Education has been that the fact that a student has recently married does not necessarily prove an applicant's financial independence from parental support as defined by these indicators. In addition, the fact that a student has recently married and left his or her parent's household should not necessarily entitle the student to special consideration as an independent student for purposes of receiving Federal financial aid. The married student should be required to fulfill the same criteria as all other applicants in determining the financial relationship with his or her parents. Some students may still be receiving parental support, even though married, so that marital status cannot be considered a reliable measure of financial independence. The answer, therefore, to the question is yes, the student would be considered a dependent student and must file with parental information.

The Office of Education recognizes, however, that there are some serious problems of equity in the case of independent students. The Office of Education would like to emphasize the fact that additional consideration is being given the problem of independents including the married student, and that we hope to present a more equitable proposal to the Congress by next March.

15. Figure 1 of Mr. Kornfeld's statement shows 140,000 veterans receiving BEOGs last year. Do you know how many of these are independent? Whether full-time or part-time students? How many are married? Do you feel our treatment of veterans under the G.I. Bill is fair? If not, what would you recommend?

Congressman Quie referred to the fact that approximately 140,000 veterans receiving educational benefits applied for Basic assistance and were determined

ATTACHMENT A

MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION

TO : All Employees, Bureau of Student Financial Assistance

DATE: SEP 8 1977

FROM : Deputy Commissioner for Student Financial Assistance

SUBJECT: Bureau Organization

As you know, Secretary Califano announced the establishment of the Bureau of Student Financial Assistance on March 8, 1977, as part of his reorganization of the Department. His purpose was to consolidate student financial aid resources and increase cooperation among the various student aid programs in order to provide the kind of leadership necessary to make sure that these programs are sensitive to student needs and accountable under sound financial practices. Commissioner Boyer on April 11, 1977, in announcing the reorganization of the Office of Education reaffirmed the need for and the important role of the Bureau of Student Financial Assistance.

Over the past several months we have been developing organizational plans for the new Bureau which would most effectively carry out the Secretary's mandate. This week, the proposed organizational structure through the Division level will be published in the Federal Register. A copy of the approved organization is attached.

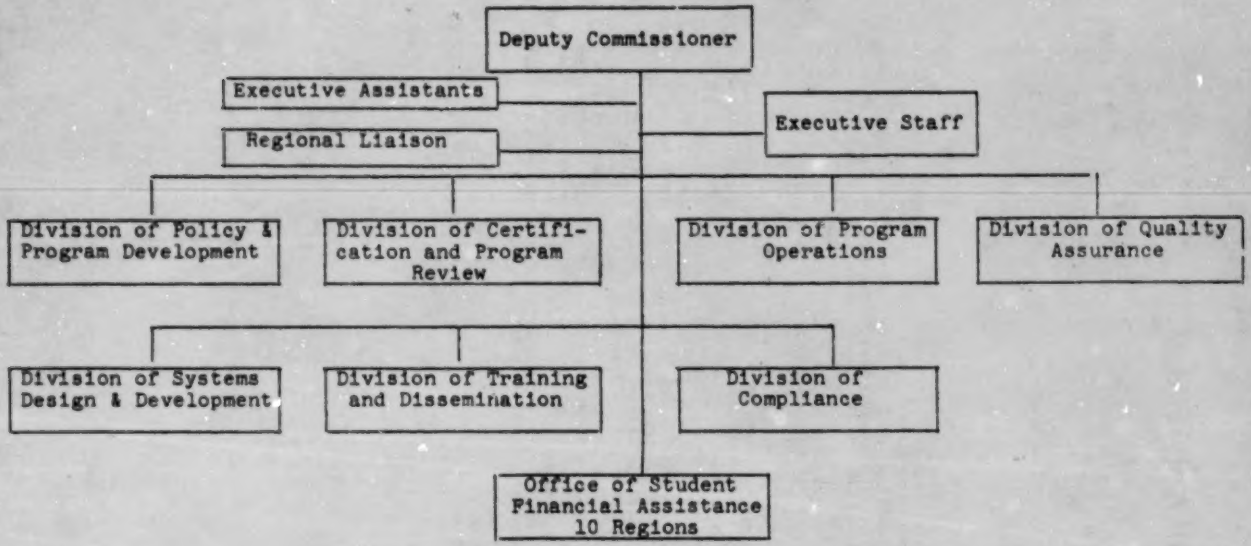
During the next several weeks we will be completing the details of the organization at the branch and section levels, including the staffing of each organizational unit. In addition, we will also be consulting with OE management and the Union regarding our plans. As soon as we have completed the planning and other steps necessary to finalize the organization and staffing of the Bureau, we will provide each of you with your organizational assignment, your supervisor's name, and a more detailed organization chart. We will also hold orientation sessions to discuss the Bureau's organization structure and goals, introduce key personnel and answer questions.

Leo L. Kornfeld

Attachments

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

BUREAU OF STUDENT FINANCIAL ASSISTANCE


Deputy Commissioner
Executive Assistants
Regional Liaison
Executive Staff
Division of Policy & Program Development
Division of Certification and Program Review
Division of Program Operations
Division of Quality Assurance
Division of Systems Design & Development
Division of Training and Dissemination
Division of Compliance
Office of Student Financial Assistance 10 Regions

9/8/77

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

EDUCATION DIVISION

OFFICE OF EDUCATION

Part EE, Office of Education (formerly Part 2B), Section EE.10 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare is amended to reflect the additions of Divisions in the Bureau of Student Financial Assistance which was created by the Secretary of Health, Education, and Welfare and the Commissioner of Education at 42 FR 13263 (March 9, 1977). A statement for an Office of Student Financial Assistance in each Region has been added in order to conform with an order by the Secretary on July 19, 1977.

The specific changes are as follows:

1) A new functional statement for the Bureau of Student Financial Assistance and the regional Offices of Student Financial Assistance is added as follows immediately after the statements for the Bureau of Education for the Handicapped and its Divisions:

BUREAU OF STUDENT FINANCIAL ASSISTANCE (EEM)

The Bureau of Student Financial Assistance formulates policy for and directs and coordinates activities of the Office of Education which provide financial assistance through grants, work and loan programs to students pursuing a postsecondary education. Programs include a grant program which provides for payment of entitlements to students enrolled or accepted for enrollment as undergraduates in eligible postsecondary educational institutions who are in financial need; programs which provide funds to eligible postsecondary educational institutions to provide grants to undergraduate students in exceptional financial need, to provide for part-time employment of needy students, and to establish and maintain loan funds to provide assistance to needy students; programs which provide for long-term low interest insured loans to students under which loans made by commercial and other lending institutions are insured or reinsured by the Federal government and for which payments are made to reduce interest costs for student borrowers, and special incentive allowances are paid to lenders; programs which provide for insured loans to students enrolled in health profession schools, under which loans made by commercial and other lending institutions are insured by the Federal government and payments are made for claims on insured loans; and programs which provide incentive grants to State agencies to provide financial assistance to students enrolled in postsecondary education and funds for training of institutional student financial aid officers. Provides direction to regional offices on regional program activities.

Division of Certification and Program Review (EEMC): Develops and disseminates standards for institutional certification for student assistance programs; develops and disseminates operating procedures for internal program reviews based on standards. Resolves audit exceptions and initiates actions which may result in limitation, suspension and termination proceedings for institutional participation in student assistance programs. Provides direction to regional offices on certification and review activities.

Division of Policy and Program Development (EEMF): Develops short and long-term issues for program planning purposes and formulates program requirements, including legislative initiatives and fund requirements for student assistance programs; directs development of revised program policies and requirements; coordinates planning initiatives and provides authoritative advice on student assistance programs.

Division of Program Operations (EEMP): Provides the operational support for student assistance programs including the processing of fund requests and the issuing of award documents and authorizations; fund reconciliation, payment of interest billings and

special allowances for insured loans; payment of claims to lenders, collection of insurance premiums, payment of claims for death and disability and teacher cancellations. Provides direction to the regional offices on operational activities.

Division of Quality Assurance (EEMQ): Determines the need for data and reports; prepares reports for management and planning purposes. Determines the impact of Bureau programs by analyzing statistical trends; analyzes program characteristics and recommends appropriate changes in policies or operating procedures. Reviews results of regional office operations to determine their effectiveness.

Division of Systems Design and Development (EEMR): Designs and develops automated systems for student assistance programs to meet operational objectives, both short and long-term. Directs system implementation and monitors contracts for system performance. Establishes controls over, and designs forms for system operations. Determines and authorizes expenditures for system contracts. Provides direction and support to regional offices on systems.

Division of Training and Dissemination (EEMT): Determines need for and provides for training of institutional student financial aid officers and staff, including development of training materials; develops and disseminates program brochures and program information to institutions, students, and the general public. Develops program manuals for school and lender use in program administration.

Provides direction to regional offices on training and dissemination activities.

Division of Compliance (EEMU): Develops standards and procedures for compliance and investigative reviews of problem schools in conjunction with the Office of the Inspector General/HEW and the Department of Justice; conducts and coordinates investigations; provides direction to regional staff and maintains liaison with the Inspector General and Department of Justice including providing support for potential criminal and civil proceedings.

The title and statement for the Division of Guaranteed Student Loans in each of the ten Regional Offices are deleted in their entirety and are replaced by the title and statement for the Office of Student Financial Assistance as follows:

Office of Student Financial Assistance (EEDIS-EEDXS): Conducts the field activities of the Bureau of Student Financial Assistance in accordance with direction and supervision from the Deputy Commissioner for Student Financial Assistance. Regional student assistance activities include, but are not limited to: institutional program reviews and compliance; examination of loans' claims and collections; review of institutional funding requests; operation of automated system; and dissemination of information to institutions, students and the general public.

The titles and statements for the Division of Basic and State Student Grants published at 39 FR 36368 (10/9/74), the Division of Student Financial Aid published at 41 FR 7980 (2/23/76), and the

Office of Guaranteed Student Loans and its three Divisions, the Division of Operational Support, the Division of Program Development, and the Division of Program Systems published at 39 FR 26185 (7/17/74) are deleted in their entirety.

Dated: Sept 1, 1977

HALE CHAMPION

Acting Secretary

Attachment B
9/26/77

BUREAU OF STUDENT FINANCIAL ASSISTANCE

Acting Division Directors

Division of Policy and Program Development	Peter K. U. Voigt
Division of Certification and Program Review	Richard A. Hastings
Division of Program Operations	Carolyn Betts
Division of Quality Assurance	Daniel R. Lau
Division of Systems Design and Development	Harold F. (Bud) Wienberg
Division of Training and Dissemination	James W. Moore
Division of Compliance	Robert F. Carmody

Acting Regional Administrators

Region I (Boston)	William T. Logan, Jr.
Region II (New York)	Thomas Zaccone
Region III (Philadephia)	Frank A. Williar
Region IV (Atlanta)	Carmelo L. Battaglia
Region V (Chicago)	Frank Yanni
Region VI (Dallas)	Arthur Lee Hardwick
Region VII (Kansas City)	J. William Keifer, Jr.
Region VIII (Denver)	Thomas F. Monahan
Region IX (San Francisco)	Charles F. Hampton
Region X (Seattle)	W. Phillips Rockefeller

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D.C. 20201

AUG 1 1977

SENATOR ROBERT MORGAN
RECEIVED
AUG 4 1977
RALEIGH, N. C.

The Honorable Robert Morgan
United States Senator
P.O. Drawer 2719
Federal Building
Century Post Office
Raleigh, North Carolina 27602

Dear Senator Morgan:

Thank you for your letter concerning the eligibility of North Carolina proprietary schools, and in particular cosmetology schools, to participate in the Basic Educational Opportunity Grant (BEOG) Program, and the eligibility of non-high school graduates to receive grants under the Basic Grant Program.

The Basic Grant Program was enacted in 1972 by the Education Amendments of 1972, Public Law 92-318. Under the program, students enrolled and attending institutions of higher education as undergraduates on at least a half-time basis are eligible to receive Basic Grants (20 U.S.C. 1070a). That statute also permitted students attending proprietary institutions of higher education to receive Basic Grants (see Section 591(b)(1) of the Higher Education Act, 20 U.S.C. 1088(b)(1)).

Section 491(b)(3) sets out the definition of a proprietary school. Under that provision a proprietary institution of higher education must (1) "provide not less than a six-month program of training to prepare students for gainful employment in a recognized occupation;" (2) "admit as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;" (3) "be legally authorized within such State to provide a program of education beyond secondary school;" (4) "not be a public or other nonprofit institution;" (5) "be accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose;" and (6) "have been in existence for two years (20 U.S.C. 1088(b)(3)). (Emphasis added.)"

Under a strictly literal interpretation of section 491(b)(3), the only accredited proprietary North Carolina schools which would qualify as eligible institutions for purposes of the BEOG Program would be those that restrict their admission of regular students to those persons having a certificate of high school graduation or its equivalent.

However, the Office of Education does not believe that the Congress intended to hold a school ineligible if it admitted merely a de minimis number of non-high school graduates as regular students. Consequently, the Office of Education has taken the position that in such case of technical non-compliance, eligibility would not be terminated. To be more specific as to what constitutes a "de minimis" number, the Department intends to issue regulations which will define the number and percentage of non-high school graduates which may be enrolled as regular students in an eligible program. Before such regulations become final, hearings will be held and the public will be given an opportunity to comment on the proposed regulations.

I understand that you were concerned that the passage of the Education Amendments of 1976, P.L. 94-482, and the Higher Education Technical Amendments, P.L. 95-43, would affect this result.

Section 181 of the Education Amendments of 1976, P.L. 94-482, amended the statutory definition of a public or nonprofit private institution of higher education set forth in section 1201(a) of the Higher Education Act (20 U.S.C. 1141(a)).

Subsection (b)(7) of the first section of P.L. 95-43 provided, in essence, that any changes made to section 1201(a) of the Higher Education Act by section 181 of P.L. 94-482 did not authorize the Commissioner to terminate the eligibility of an institution of higher education that was previously eligible under section 1201(a) before the enactment of section 181.

Thus, neither Act changed the eligibility requirements for a proprietary institution of higher education.

In response to your second question regarding the high school graduation requirements of the BEOG program, the authorizing legislation does not specifically require that BEOG recipients have a certificate of high school graduation or its equivalent. The Basic Grant Program regulations state that a student must be enrolled in an eligible program of study offered by an eligible institution of higher education (45 CFR 190.3(a)(2)). Thus, if a non-high school graduate enrolls in an eligible program in an eligible institution, the student may secure a Basic Grant if he is otherwise eligible, so long as his presence does not make the institution itself ineligible.

I appreciate your concern in this matter. If we can be of further assistance, please let me know.

Sincerely,

Joseph A. Califano, Jr.

Joseph A. Califano, Jr.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
BUREAU OF POSTSECONDARY EDUCATION
WASHINGTON, D.C. 20202

January 31, 1977

Our Reference: BPE:DEAE:IEB:OSES-E-2

Accredited by: CAC
EIN# 94-1684521
Control: Prop.
Re: Sierra College of Beauty
1340 West 18th Street
Merced, California 95340

Mr. Roy E. Stefani
Sierra College of Beauty
1340 West 18th Street
Merced, California 95340

Eligibility does not include Teacher Training

Dear Mr. Stefani:

This is to certify that the school listed above meets the definition of a proprietary institution of higher education, as defined by the Higher Education Act of 1965, as amended.

(1) As an "eligible institution" it is eligible to apply for participation in the following programs administered by the Bureau of Higher Education:

National Direct Student Loan Program
College Work-Study Program
Supplemental Education Opportunity Grants Program
Special programs for disadvantaged students: Talent Search, Upward Bound, Special Services

(2) Students who have been accepted for enrollment or are in good standing at this "eligible institution" are also eligible for Basic Educational Opportunity Grants.

Please note, however, that this eligibility applies while the school remains under the current ownership and only to accredited occupational programs which require high school graduation or the equivalent for admission and are at least six months in length. The appropriate Higher Education Program Officer in your respective region, as indicated on the enclosed list, will answer your specific questions and supply you with required applications for participation and program regulations.

Sincerely yours,

Ruth W. Crowley, Chief
Occupational School Eligibility Section
Institutional Eligibility Branch
Division of Eligibility
and Agency Evaluation

Enclosures: Memorandum concerning prohibition of sex discrimination
OE Regional Office List
Informational Statement

cc: Regional Office PE; SFA; BEOG; OSES; CSS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
BUREAU OF POSTSECONDARY EDUCATION
WASHINGTON, D.C. 20202

January 31, 1977

Our Reference: BPE:DEAE:IEB:OSES-El

Eligibility Date: 1/31/77
Accredited by: CAC Control: Prop
EIN# 94-1684521
Scope: Cosmetology
*Re: Sierra College of Beauty
1340 West 18th Street
Merced, California 95340

Mr. Roy E. Stefani
Sierra College of Beauty
1340 West 18th Street
Merced, California 95340

Eligibility does not include Teacher Training

Dear Mr. Seefani:

It is a pleasure to inform you that the school* listed above, operating at the address indicated, is considered to be an "eligible institution" for the following programs administered by the Office of Education.

Guaranteed Student Loan Program. In order to participate in this program, each eligible school must sign an "Agreement Regarding Institutional Participation in the Guaranteed Student Loan Program". This form will automatically be mailed to you by our Office of Guaranteed Student Loans. Please note, however, that student loans are available only to eligible students who are enrolled in eligible programs as defined by the statutes and program regulations. Please communicate with the Program Officer, OGSL in your respective OE Regional Office for answers to your specific questions concerning the operation of this program.

Contracts under the provisions of the Vocational Education Act. This program provides that the State Board or local educational agency may enter into arrangements with private postsecondary schools to provide vocational instruction when it has been determined that the private institution can provide equivalent training at a lesser cost, or can provide equipment or services not available in public schools. Please communicate with the State Director of Vocational Education in your respective State Capital for additional information on the program.

Please note that this eligibility pertains to the school* listed at the above address, as long as the school remains accredited by a nationally recognized accrediting agency or association, continues to operate under the same ownership and has not violated or failed to carry out any regulations prescribed by the Commissioner of Education. Please notify this Office immediately of any name, address, or ownership change to assure continuation of the eligibility status of the school.

Sincerely yours,

Ruth W. Crowley, Chief
Occupational School Eligibility Section
Institutional Eligibility Branch
Division of Eligibility
and Agency Evaluation

Enclosure
cc: OGSL; OGSL Field; BAVTE; CSS; OSE